MEMORANDUM

ON THE

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DEMARCATION OF THE PUBLIC FORESTS

IN THE

MADRAS PRESIDENCY,

BY

D. BRANDIS,

INSPECTOR GENERAL OF FORESTS TO THE GOVERNMENT OF INDIA.

Dated the 15th August 1878.

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1878.

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For some years past a tendency appears to have prevailed in the Madras Presidency to give up the rights of the State in the forests, or at least not sufficiently to guard and protect them. A separate forest administration was organized as long ago as 1856; but while in the provinces under the Government of India and in the Bombay Presidency great progress has been made in separating the lands which are to be permanently maintained as forest, from the great mass of forest—and waste lands, no progress on an adequate scale has been made in this respect in the Madras Presidency. The consequence has been that, with the increase of cattle and population in most parts of the Presidency, denudation has made most alarming progress, and this denudation has greatly aggravated the evil effects of the late years of drought and famine.

2. In August 1863, when Dr. Cleghorn, the Conservator of Forests in Madras, was on special duty in the Punjab, he, and the writer of the present paper, submitted a joint-memorandum to Government, urging the necessity of early demarcation of Government and village forests in the Madras Presidency. This document was transmitted to the Madras Government, but its suggestions have remained without effect.

In September 1869, the Government of India urged upon the Government of Madras the necessity of early demarcation and efficient protection of extensive forest reserves, chiefly in order to secure a permanent supply of fuel for the Railways.

No. 458-F., dated the 29th September 1869.

From—The Secretary to the Government of India, Public Works Department,

To—The Secretary to the Government of Madras, Revenue Department.

* * * * *

2. As the construction of the north-west line of the Madras Railway progresses, it seems likely that the consumption of wood-fuel will increase in a larger proportion than that of mineral-fuel; and, considering the length of lines open in 1868; and the length sanctioned, as well as the probability of an increased traffic, it seems not unreasonable to suppose that the requirements of the railways in the Madras Presidency and Mysore will eventually rise to 100,000 tons of firewood annually.

The rapid exhaustion of the jungle tracts in the vicinity of the lines has been pointed out by the Consulting Engineer, who also justly remarks that the price of the wood and the seigniorage charged by Government are far below the cost of production. The seigniorage has, however, since the 1st instant, been raised from 6 annas per 1,000 lbs., to 1 rupee per 1,000 lbs., equal to 2 rupees 4 annas per ton, which appears to His Excellency in Council a prudent and necessary measure.

3. To secure a permanent supply for the future, the formation of plantations has been proposed in addition to the care of the natural forests. It appears to the Governor General in Council that every exertion should be made to bring the natural forests under a systematic management, and thus to improve their productiveness. The Conservator observes that

plantations are mostly required in the dry timberless districts : he fears that they will be most expensive in those parts unless there are facilities for irrigation, and he proposes that in such districts plantations should at first not be attempted on any large scale. As long as plantations are experimental only, operations should be on a moderate scale ; but as soon as planting is found to be practicable at remunerative rates, it will be necessary in Madras, as well as elsewhere, to concentrate these operations on a few blocks of large size, so as to secure efficient supervision at moderate cost.

4. But howsoever important plantations for this purpose may be, it appears certain that, for a considerable time to come, the main supply of railway fuel must be drawn from the natural jungles, and His Excellency in Council would therefore invite the attention of the Madras Government to the consideration of the following suggestions.

5. It appears from the proceedings that there are two classes of forests in the Madras Presidency—those under Collectors, and those under the Forest Department—and that the railways draw their supplies of fuel from the forests of both classes. It appears desirable that all Government forests which are conveniently situated to furnish supplies of fuel to the railway should be selected and made over to the Forest Department. All these tracts should be demarcated and be placed in charge of forest rangers, who should reside on the spot, and, if possible, be natives of the country.

6. With the view of securing efficient protection and satisfactory management, the attempt should be made to effect the regulation, commutation, or extinction of those forest rights of the inhabitants which interfere with a satisfactory conservancy management. The Governor General in Council trusts that the Madras Government may devise means for effecting a fair and equitable settlement of these forest rights, with due regard for the requirements of the people, by means of the grant of land, the formation of village forests for the exclusive use of the people, or by other means.

7. When forest lands have been thus demarcated and placed in charge of the Forest Department, then all cutting and felling should be arranged according to a regular system of operations, with the view of securing re-production either as coppice or by self-sown seedlings aided wherever necessary by sowing and planting.

Lastly, His Excellency in Council would suggest that whenever an opportunity offers, private forests, which are conveniently situated for the supply of fuel for the railway, be leased on behalf of Government.

If the consumption of wood-fuel for the railways increases as anticipated, the revenue realized from seignorage, or by the sale of the fuel, will be amply sufficient to cover the cost of the measures here suggested.

Since then the Government of India has remonstrated on several occasions, but its representations have remained without effect, and it will now be necessary to take a general review of the position of forest administration in the Madras Presidency, and to consider the measures that have now become necessary, in order to guard against the evils which will be the certain and unavoidable consequence of further denudation.

3. It will be convenient first to consider the present state of matters in certain districts, and then to review the general forest policy of the present Government of Madras, as indicated by the measures taken by them, and by the opinions expressed by the members of that Government, in connection with forest legislation.

TINNEVELLY DISTRICT.

4. In September 1867, Mr. Puckle, the Collector of Tinnevelly, wrote to Dr. Cleghorn, then Conservator, regarding the forests which clothe the eastern slopes of the mountain range, which separates Travancore from the Tinnevelly district. The northern portion of these forests is situated near the head-waters of the Vypar river, and the southern portion on the head-waters of the Tambrapurni. Dr. Cleghorn, when Conservator in Madras, first drew attention to the importance of these forests in connection with the expected fuel requirements of the Great Southern Railway, but their chief value, as well as that of the adjoining forests of the Madura district, is to maintain a constant water-supply in these rivers, particularly in the basin of the Tambrapurni.

Mr. Puckle wrote as follows :—

No. 2156, dated the 30th September 1867.

From—R. K. Puckle, Esq., Collector of Tinnevelly,

To—The Conservator of Forests, Madras.

* * * * *

2. The prosperity of the river-irrigated section of Tinnevelly, extending through five taluks, from the Western Ghâts to the sea, is dependent on a continuous flow of water in the rivers

that rise on the Western Ghâts. Now this continuous flow has notably decreased of late years, and the decrease commenced with the destruction of much of the forest that formerly clothed the ghâts and protected the heads of the streams; the rich shola land in the ravines down which the streams descend attracted coffee planters who destroyed the magnificent timber, and thus let in the wind which has extended the mischief done by the axe. Thousands of trees lie prostrate, and the coffee gardens, as might be expected, are mostly wind-blown and useless. Where the ground was once moist continuously, it is now parched and dry, and the courses of the numerous little rivulets that once fed the larger streams are now mere rocky nullahs, without a drop of water in them. The mischief, however, is done so far, and cannot now be repaired, but what we can do is to conserve the remaining forest most carefully, and see if we cannot increase the volume of water in the streams. Almost all the streams descend the ghâts in the Tenkasi and Ambasamudram taluks between Courtallum and Kalladakurichi. The area to conserve is thus very limited, and in the Tenkasi taluk I have visited every village, and have made most careful arrangements. The people themselves are unanimous in their wish for conservancy, as even at the foot of the hills they now begin to suffer, and lower down the streams there is always an outcry for water. The Government have just sanctioned an additional anicut on the Tambrapurni at a cost of seven lakhs of rupees, and it behoves us to do all we can to increase the water-supply. My arrangements for Tenkasi are as under :—

(1.) The issue of licenses to cut timber has been stopped for the present at all events.

(2.) All cultivation on the hills (except coffee) has been prohibited with the ryots' consent.

(3.) All charcoal burning and firing the grass on the hills has been prohibited.

(4.) Cattle-grazing and fire-wood cutting have been restricted to certain limits defined for each separate village (*vide* notice enclosed), and five watching peons have been appointed, one to the course of each stream to see these conditions observed.

3. The effect of this conservancy is already most marked in some places; bushes are growing on bare hill sides, trees stunted and pollarded are now throwing out fresh limbs, and with perseverance there is every prospect of the hill sides being covered with trees in the course of the next two years.

4. What I have done for Tenkasi I propose to do for Ambasamudram, with the modification of granting licenses to cut timber in the Alwarcurchy forests.

5. It must not be supposed that the people suffer by these arrangements. On the contrary, the villagers concerned are perfectly satisfied, and the public of the Tenkasi taluk can draw an unlimited supply of timber from the Travancore depôt at Puleyarai, and from the Chokampatti zemindary.

6. In Ambasamudram enormous tracts of forest, claimed by the Singampatti Zemindar, are open for felling (pending reference to the Board), and the Alwarcurchy forest alone is capable of yielding almost any amount.

7. The possible forest revenue to be derived from the forests on our side of the Western Ghâts is as nothing compared with a single year's remission for withered crops occasioned by want of water, and I think we cannot protect the interests of Government better than by strictly conserving these forest tracts along the course of the streams, for some years at all events, without an attempt to draw revenue of any description from them. If you concur in my views, and are willing to forego any revenue from Tenkasi, and restrict felling in Ambasamudram to the Alwarcurchy limits only, I shall be glad to hand over charge of the forests entirely; but should you deem it necessary to draw revenue from the forests everywhere without regard to locality, as a set-off against expenditure, I think it would be better if I retained charge of the southern forests, and made my own arrangements to guard them.

8. The Sankaraninarkovil tahsildar has just written to set forth the necessity of some such arrangements in his taluk, and he strongly urges the advisability of having all timber felled by the Forest Department, and drawn to convenient depôts, there to be sold by auction. He states that immense mischief is done by tree after tree being cut down till the right tree is got; by trees being half cut through and left; by only portions of trees being dressed and brought down as timber; and by the Forest peons being evaded or bought over to pass unlicensed timber. The people there also are greatly in need of water, as the streams have almost failed them, and, pending your further instructions, I have ordered him to issue no more licenses, and to make arrangements for grazing and firewood cutting in Puliyangudi, Vasadevanallur, and Sintamani, similar to those I have made in Tenkasi.

9. The Setur Sivagherry and Chokampatti zemindars possess almost unlimited forests in the Sankaraninarkovil taluk, so there will be no scarcity of timber in the market by the temporary restriction imposed.

5. This report, together with a detailed report on the forests by Captain Beddome, then Deputy Conservator, was submitted by Dr. Cleghorn to Government, who, in their orders of 6th January 1868, said that they entirely "concurred with Dr. Cleghorn that the present and prospective requirements

of the southern districts rendered it eminently desirable that a skilled officer of standing should be appointed to the united range of the Madura and Tinnevelly forests," and added that "Captain Beddome's detailed report of his tour through the Tinnevelly forests indicates an immense field for forest operations."

6. Eight years later, in a report on the Tinnevelly forests of 4th February 1876, Colonel Beddome, who had succeeded Dr. Cleghorn as Conservator, remarked that "Government had lately given up very large tracts of forests to certain zemindars in Tinnevelly," that Government ryots living in their vicinity have enjoyed certain rights or privileges on the outskirts of these tracts in common with the zemindar's ryots, and that both these rights are likely to be entirely disallowed." Upon this the Government of India (in July 1876) requested to be favored with a report. In reply, the Madras Government (November 1876) stated that the result of subsequent enquiries of the Collector was that all the zemindars of the Tinnevelly district had undoubtedly exercised some rights of ownership (however vague and undefined) over the forests in their neighbourhood, and had always asserted a claim to the primeval forests, extending as far as the boundary of the district from times anterior to British rule. The Madras Government further explained that they had come to the conclusion that most of the forests in question were not the property of Government, but of zemindars, and added that endeavours would be made to obtain some of them on lease. Upon this (May 1877) the Government of India drew attention to the different views entertained by the Madras Government in 1868, and asked to be furnished with a statement of the forests in those districts which were now under the control of Government, accompanied by such remarks, as would explain whether they were the property of Government, or whether they had been leased or obtained in any other manner. To this request no reply has been received.

7. The Government of India has no data which would justify any conclusions on this subject, but it is not impossible that the supposed proprietary rights of the zemindars were, as a matter of fact, not rights of ownership in the soil, but merely rights of user to pasture and wood for the requirements of their tenants.

8. The devastation which is progressing in these forests claimed by zemindars is thus described by Colonel Beddome in a report submitted to the Madras Government in November 1876.

No. 1275, dated the 3rd November 1876.

From—The Conservator of Forests, Madras,

To—The Secretary to the Government of Madras, Revenue Department.

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27. If Government take no action in the matter, I think that there is little doubt that these private forests will now rapidly disappear; the Sattur and Sivagiri forests are of much less importance than the tracts to the south, which protect the sources of the Tambrapurni, but it will be an unhappy day for Tinnevelly when all the forests of the Singamputty zemindari and the Katalaimalai are destroyed. A portion of the Katalaimalai has, I believe, been already leased out for coffee cultivation. The planters who came over from Ceylon are now giving a very high price for land, and the whole mischief may be effected in a very short time. It must not be supposed that coffee is at all a permanent cultivation: we have only to look at the Sampajee ghât in Coorg, the Carcoor ghât and many other places in the Wynaad, the Sispara ghât on the Nilgiris, and parts of the Anamallays, to see at once that it is often very little better than the Kumri of the hill men. The list of deserted estates is, I fancy, much greater than that of estates kept up, and if it had not been that the price of coffee suddenly doubled itself a few years ago, there would be hardly any of the old estates kept up at all, at least in North Wynaad and Coorg; it pays a coffee planter to take up a tract of primeval moist forest on our mountain slopes for a few years; he gets bumper crops the 3rd, 4th and 5th years, but denudation of the soil goes on rapidly, and it does not pay him to keep it up many years: Can we then restore the grand old forest with all its climatic influences? A thorny wilderness takes its place; this is a certainty on mountain slopes and steep ravines, and is only a question of time; but even on the plateau of our different hills we see estate after estate deserted, the soil being rapidly exhausted, and the planter seldom

being able to manure and weed as he should, the trees succumb to the ravages of the borer and leaf-disease.

The Collector, in transmitting this report, wrote "the demarcation of the zemindari forests is a matter of much importance, especially in the case of Singamputty, whose claims are enormous."

The Madras Government, in their orders of 20th February 1877, do not notice the warnings given by Colonel Beddome, and merely observe that the Government learn with satisfaction that coffee planting is extending as mentioned by the Conservator.

CUDDAPAH DISTRICT.

9. The Proceedings of the Madras Government for June 1877 contain a detailed report by Colonel Beddome, the Conservator, on the forests in the Cuddapah District, with the remarks on that report by the Collector, the order of the Board of Revenue and the Madras Government. From these papers it appears that very extensive areas of forest and waste in this district are at the disposal of Government, but that all the action taken in the direction of forest conservancy has consisted in establishing five plantations aggregating 1,728 acres at an outlay of Rs. 41,730, and in demarcating some small reserves aggregating 16,830 acres at an expenditure of Rs. 25,830, and that in spite of this outlay even these small areas had not been efficiently protected, that they had been burnt and grazed over by cattle, and that all prospect of their improvement under such a system was hopeless. The Collector stated that there was ample room to make large reserves, which he suggested should be fenced with stone walls, without in the least interfering with the grazing ground required for the cattle of the district. The Conservator and Collector agree in their account of the devastation of these forests, and the ruthless destruction of young trees.

10. The Board of Revenue state that the forests in this district are extensive and valuable, that the area of those situated in four taluks is estimated at 1,150 square miles, the whole extent being the property of Government, with the exception of a few small tracts.

But the Government observe, "that with such vast areas of forest it may require further consideration whether the general conservancy of the forest area under the operation of a liberal enactment would not be more expedient and economical, whether in the interests of the State or the people, than the formation of close reserves for fuel."

11. No good whatsoever can be effected in this district by any measure short of the demarcation and efficient protection of an adequate area of reserves to be permanently maintained as forest; but they must be on a much larger scale, and much more efficiently protected than the insignificant areas hitherto taken in hand. What is required in a district like this is a separation of the forest area. Sufficient areas must be assigned for the requirements of the agricultural population, and in these areas no restrictions need be enforced until it is found necessary to form them into village forests, and to subject them to a regular system of management. If this is done, the remainder can and must be demarcated to be permanently maintained as forest, and to be protected against fire; and during the first series of years, it must be protected against cattle also. Should, on a searching enquiry, any of these forests be found really, as seems to be supposed by the present Madras Government, the communal property of the village communities, then they might be demarcated as village forests and not as State forests. But protected and improved they must be for the benefit of the country. Had the hills of the Cuddapah District been protected in the manner here indicated, the improvement of the forest growth would have made its influence felt in regulating the surface drainage. Tanks and streams would have been supplied more evenly and more plentifully, and the water-supply in springs would have been improved.

Action must be taken in this matter—in this and the other inland districts of the Peninsula—if it is not intended to hand over these dry and hot districts of South India to permanent scarcity and misery.

12. These considerations induced the Government of India to address the following letter to the Madras Government on the subject :—

No. 127F., dated the 30th January 1878.

From—The Secretary to the Government of India, Department of Revenue, Agriculture and Commerce,

To—The Secretary to the Government of Madras.

The Governor General in Council having perused the orders of the Government of Madras (Forests, No. 5, dated the 13th June 1877), with the connected papers on the subject of the Cuddapah forests, His Excellency desires me to communicate the following observations for the consideration of His Grace the Governor in Council.

2. The Cuddapah district, measuring 8,000 square miles, with a population of only 170 to the square mile, with a dry climate, but with numerous tanks and streams, traversed by the railway, contains, according to the statement of the Board of Revenue, extensive and valuable forests. These, situated in four talukas, are estimated at 1,150 square miles, the whole extent being the property of Government, with the exception of a few small tracts. The area of the forests in the remainder of the district is unknown, and the Board possess no information as to the system of working them, or as to the receipts therefrom.

3. In this district, as in most others of the Madras Presidency, forest operations commenced in 1856. Five plantations aggregating 1,728 acres have been established at an outlay of Rs. 41,730, and seven reserves aggregating 16,830 acres or 26·3 square miles have been demarcated and partially protected at an outlay of Rs. 25,830. In the remainder of the forests, fuel is cut for the railway, and during the last 6½ years 86,662 tons have been so disposed of for Rs. 1,94,064, or at less than Rs. 2-1 per ton.

4. The Madras Government propose to consider "whether the general conservancy of the forest area under the operation of a liberal enactment would not be more expedient and economical, whether in the interests of the State or the people, than the formation of close reserves for fuel."

5. The experience which has been acquired from forest operations in other parts of India constrains the Governor General in Council to express his decided opinion that the formation of close reserves is imperatively necessary for the preservation of forests. These must be on a much larger scale and much more efficiently protected than the insignificant areas hitherto taken in hand. What is wanted is a separation of the forest area. Sufficient tracts should be assigned for the requirements of the agricultural population, and in these there need be no restrictions whatever. This being done, it appears to His Excellency in Council of vital importance that a limited but sufficiently extensive area should be demarcated and maintained as forest reserves to be protected against fire, and, at first, against cattle also.

6. If after a full and careful inquiry any of these tracts should be found to be the property of the village communities, it would seem still necessary to demarcate these tracts as communal though not as State forests. It is the duty of the Government to take care that communal rights in forests shall be exercised in a manner which is consistent with the preservation of the forests and the permanent general benefit of the community. These communal forests, if such there be, should therefore be protected and improved by the State, and under the control of the State, so as to provide permanently for the requirements of the proprietors. The revenues derived from such forests should be expended for the benefit of the community in the construction of roads, of wells, tanks, and other useful works chiefly of communication and water storage. In the opinion of His Excellency the Governor General in Council this would be a truly liberal policy.

7. In most provinces under the Government of India the great mass of reserved forests has been demarcated without the assistance of the Forest Act. The question whether a forest may be demarcated and permanently maintained as a forest, whether as the property of the State or of village communities, does not depend on the passing of such an Act. These are important matters which cannot be neglected without vast injury to the State and the people. As cultivation increases, the task of demarcating forest reserves becomes yearly more difficult, and in the opinion of the Governor General in Council some commencement should now be made on a sufficiently large scale as to be really useful.

More than six months have elapsed since this letter was despatched, but no communication on the subject has been received from the Madras Government. It has, however, been noticed from the Proceedings of that Government of May last, that a commencement has been made in the right direction. The closing of the existing reserves has been sanctioned, and the entrance into them of cattle, sheep or goats is not to be permitted for any purpose without special reference to Government. The preparation of a scheme of further reserves throughout the district has also been ordered, and the Local Revenue Officers

have been directed to give every assistance in their power to the Forest Officers in this matter, as well as in the formation of village reserves. This is satisfactory as far as it goes.

COIMBATORE DISTRICT.

13. In the angle formed by the Cauvery and Bhowani rivers is a large extent of hilly and thinly inhabited country, mostly forest and waste, known as the Collegal, Bhowani and Sattiamangalam forest ranges, a large portion of which is at the disposal of Government, and which is of special value on account of the large quantity of sandalwood, Acha (*Hardwickia binata*) and blackwood found in it.

Colonel Beddome, the Conservator, reported on this tract in July 1876, and the following are extracts from his report :—

No. 981, dated the 19th July 1876.

From—The Conservator of Forests, Madras,

To—The Secretary to the Government of Madras, Revenue Department.

* * * * *

10. The growth of the sandal is a very important question, and the tree is likely to disappear altogether in time and a large revenue be lost to Government, and a most valuable product lost to commerce, unless care is taken ; large portions of the tract should be treated as proposed in paragraph 5 of this report, but it is difficult to do anything under the present state of forest law. Grazing rights, or rather privileges, exist everywhere more or less, and, until these are defined and restricted, I do not see what the Forest Officer can do towards conservancy ; but, considering the enormous extent of country, about 3,000 square miles, and the almost total absence of any population throughout the greater portion, there should be room for much reservation and conservancy after making ample arrangements for grazing or other communal rights.

11. No land should be alienated anywhere within this tract without the consent of the Forest Department.

Paragraph 5, quoted in the above, runs as follows :—

5. The best and cheapest way to grow sandalwood in this locality would be to reserve or even fence in certain tracts of the indigenous jungle, foster and conserve the natural growth amongst the bushes, and supplement it with seedlings and seed under the present uncertain state of our boundaries and the want of a Forest Act. I am afraid, however, that this plan could scarcely be adopted ; we must patiently wait for demarcation and a Forest Act.

The Government decided that it was sufficient for the present that all applications for land within the large sandal tract should be referred to the Forest Officer before being complied with.

14. In March 1876 the Conservator had proposed the formation of certain reserves at the foot of the Nilgiris, chiefly for the purpose of providing fuel for the railway, but in their orders of 30th March, the Government decided to postpone action on the question of reserves in this range until a Forest Act was passed.

On these orders the Government of India remarked as follows :—

No. 918, dated the 9th September 1876.

From—The Secretary to the Government of India, Department of Revenue, Agriculture and Commerce,

To—The Secretary to the Government of Madras.

The attention of the Governor General in Council has been drawn to the orders passed by the Government of Madras regarding the demarcation of certain fuel reserves in the Coimbatore district which are recorded as No. 293 in the Proceedings for March last.

2. The orders are, that action on the question of these reserves will be postponed until a Forest Act has been passed. The Governor General in Council is not in a position to form any opinion on the merits of the particular question involved, but desires to express a hope that the work of demarcation of reserves generally in the Madras Presidency will not be delayed pending the passing of a Forest Act. The demarcation of reserves, as it has been carried on to a large extent, and with great success in the provinces under the Government of India, consists in setting apart portions of the forests and waste lands in which Government has proprietary rights. This demarcation is an act which Government, as the proprietor of these lands, is at liberty to take, and which does not require the sanction of a special law.

3. The matter is different when, after the demarcation of a reserve has been completed it is intended to attempt to regulate the exercise of the prescriptive rights to pasture and to

wood, bamboos and other forest produce, with which any of the demarcated forests may be found burdened. For this purpose, and for the purpose of commuting any rights by the grant of rights in other forests, or of land or otherwise, special forest legislation is necessary. A forest law is also required in order to guard against the acquisition by prescription of fresh rights in a demarcated forest, and to facilitate the protection of the reserves.

4.. But the work of selecting and demarcating the areas which Government deems it necessary to maintain as forest reserves, as far as the rights of Government may permit, is the first step which must be taken in this business, and this step His Excellency the Governor General in Council apprehends may, in the Madras Presidency, as well as in other parts of India, be taken without waiting for special forest legislation.

No notice has been taken of this communication by the Madras Government.

15. In the same report (of July 1876) in which Colonel Beddome reported on the Collegal and Bhowani Forests, he reported on certain fuel reserves which had been demarcated at the foot of the Nilgiris in 1871. It will be necessary to quote the words of his report.

No. 981, dated the 19th July 1876.

From—The Conservator of Forests, Madras,

To—The Secretary to the Government of Madras, Revenue Department.

* * * * *

18. Government sanctioned the reservation; they were regularly demarcated by the Survey Department, and H. and M. were partly fenced in at an expenditure of Rs. 2,000. I was much astonished lately to find that they had been thrown open to grazing by the Collector after the receipt of the Proceedings of the Board of Revenue, No. 1964, of 27th July 1874. It is very disheartening that, after tracts have been regularly selected both by the Revenue and Forest officials, sanctioned by Government, demarcated and fenced in, they should be thrown open two or three years afterwards to indiscriminate grazing just as a young growth might be making a good start.

* * * * *

21. *The H. Reserve.*—This is on the right bank of the Bhowani above Nellitorây, some five miles from Mettapolliam; it is hilly and better clothed with trees than the M. reserve, but of much the same character; it was fenced in and had improved much in growth; but lately cattle having been allowed in, the fences have been destroyed, and all the expenditure and trouble rendered of no effect.

The Madras Government, in passing orders on this report, said that the reserves in question would be maintained, but they were not at present prepared to sanction any extension of the reserves at the foot of the hills.

16. In his annual Forest Report for 1876-77, the Conservator wrote as follows regarding these reserves:—

56. They aggregate 12,160 acres, but it is a mistake calling them "Reserves;" since the Collector has thrown them open to indiscriminate grazing, and they are overrun by cattle and goats. They should never have been constituted as such if the possibility of this was contemplated, the growth is almost entirely *Acacia amara*, and with proper enclosures, fire traces, and the exclusion of goats, they would soon become a valuable property; but with the presence of large herds of goats they must ever remain the wretched looking tracts they now are. They were regularly selected by the Revenue and Forest officials in conjunction, sanctioned by Government, demarcated by the Survey Department, and partly fenced in; but all the money and trouble has been thrown away.

Upon this, the following letter was addressed to the Madras Government by the Government of India in the Department of Revenue, Agriculture and Commerce:—

No. 541 F., dated the 22nd May 1878.

The attention of the Government of India has been drawn to paragraph 56 of Colonel Beddome's Annual Report of Forest Administration in the Madras Presidency for 1876-77, received with copy of a despatch addressed to Her Majesty's Secretary of State, No. 1, dated the 26th February last, which relates to the condition of certain reserves formed in the Coimbatore district.

2. From the papers recorded in the Revenue Proceedings of the Government of Madras, dated the 23rd January 1877, it is gathered that in 1871 the demarcation of these reserves was sanctioned by the Madras Government, and that some expenditure was incurred on their protection. In July 1876, the Conservator of Forests reported, with special reference to two of these reserves designated as the M. and H. reserves, that since 1874 cattle and goats had been admitted, and that the opening of these reserves to grazing by the Collector had rendered all expenditure and labour bestowed upon them of no effect. In paragraph 7 of their orders

of the 23rd January 1877, on Colonel Beddome's Annual Report for 1876-77, the Government of Madras observed that these reserves would be maintained; but it is evident from paragraph 56 of that report that their maintenance is merely nominal.

2. Under these circumstances, His Excellency in Council deems it right to call the attention of the Government of Madras to the facts of the case, and to point out that some further action would seem necessary if these sanctioned reserves are to be properly maintained.

17. The Coimbatore district is situated between latitude 10° 30′ and 11° 30′, the mean temperature of the year is 77° 2′ at Coimbatore, while that of the eastern part of the district probably approaches more that of Salem, which is 81°. The annual rain-fall is between 17 and 36 inches, that of Coimbatore being 21 inches. It is well known that the agriculture of this district is not progressing, and that particularly there is great scarcity of cattle fodder in many parts of it, and that this scarcity of fodder has seriously increased of late years. Now these are all significant facts. Under a tropical sun, a climate with a rainfall of even 30 inches is essentially a dry climate, for evaporation is extremely powerful.

18. Without entering into detail, it may be said that a certain area of the district under well protected forest, would increase the dry weather water-supply in streams coming from those forests, and in wells in their vicinity. It would increase the fuel supply to towns and villages, and would facilitate the better manuring of the fields, and it would largely increase the production of grass for cattle fodder. At the commencement, when a reserve is taken in hand and placed under strict protection, cattle must be rigidly excluded, and fires must be kept out always. But such areas which, in a dry and hot climate as that of South India, are most imperfectly stocked with a scanty crop of miserable grass and herbage, if protected for some time against cattle and fires, get covered by a luxuriant crop of grass which may be cut and thus be made available for cattle fodder.

It will even be possible, in certain localities and under due precautions, to admit cattle to graze in such protected reserves, after the improvement of the growing stock has progressed sufficiently, and after fire protection has been firmly established.

But in these respects the districts mentioned, Tinnevelly, Cuddapah and Coimbatore, do not stand isolated; the protection and improvement of a certain area of forest will be directly beneficial to the agriculture of most inland districts of South India.

SOUTH KANARA DISTRICT.

19. This district occupies the belt of hilly country which intervenes between the crest of the ghâts and the sea, from latitude 12° 10′ to latitude 13° 40′. The portion situated near and on the ghâts is partly covered with dense forest, while the valleys and the country near the coast are open and consist of belts of paddy fields with jungle and forest on the high ground between them. In the district of Malabar, which adjoins Kanara on the south, the whole land, including the forest is private property. In North Kanara the forests have always been regarded as the property of Government, and the rights of Government in these forests were never disputed until 1870, when a suit was instituted against Government in the District Court of North Kanara by certain Wargdars for a large extent of forest situated below ghât on the river Kalanadi in the Ankola taluka. These forests were claimed *first*, by virtue of certain sanads, alleged to have been granted by Tippoo Sultan, *second*, by virtue of the claimants having exercised the right of cutting trees, gathering forest produce, and cultivating kumri, and having paid assessment for the kumri cut by them, and tax for the collection of forest produce.

The judgment of the District Court was delivered in March 1872, and was adverse to the plaintiffs. But the case has been appealed to the Bombay High Court.

20. In the southern portion of the South Kanara district, which adjoins Malabar, and which is known as the Bekal or Kassergode taluka, circumstances are similar to Malabar, the proprietary rights of private landholders

were more strongly asserted than anywhere else in Kanara, and it may be assumed that a large portion of the forest area in this taluka is actually the property of the Wargdars.

But in the northern and larger portion of the district the greater portion of the forests have always been regarded as the property of Government.

21. In 1805 and 1806 the Bombay Government sought and obtained the management of the sea-borne timber trade of the coast, in order to secure cheap material for the dock-yard and to prevent illicit supply to hostile powers. This step was shortly followed by the proclamation of a royalty on the ship building timber (teak and poonspars) at first only as respects teak in Malabar, but it was soon extended to Kanara also, in view to the supply of crooked teak which was found in its northern forests. In April 1807, a proclamation was issued in Malabar, declaring that the Honorable the Court of Directors had assumed the sovereignty of the forests. A Conservator was appointed and the royalty assumed in his hands the dimensions of a monopoly of almost all timber and wood grown in the country.

The public forests were not ascertained, nor was a proper distinction made between public and private forests. The system, which was intended at first merely to secure the teak grown in the public forests for the Navy, was by gradual encroachments made to include all wood grown on private estates as well as in the public forests. In 1808, in consequence of complaints, the Government of Madras suggested to that of Bombay the propriety of the Conservator confining his operations to the forests, which were undoubtedly public property.

22. In December 1822, the Government of Madras, addressing that of Bombay on this subject, said—"The Conservator under the assumed sovereignty of the forests has exercised the same kind of authority as if by a universal forfeiture, all the trees and all the timber of Malabar and Kanara had escheated to the Government."....."We shall consider it our duty to take immediate measures for affording protection to the inhabitants of Malabar and Kanara against any encroachments on their property which may hitherto, through inadvertence, have been tolerated. We accordingly propose to cause it to be intimated to the officers of this Government in those provinces that the authority of the Conservator extends only to the timber and trees produced in the forests belonging to Government."

And in their orders to the Collectors, the Madras Government said "next to protecting the people from any obstruction in the enjoyment of their property and the exercise of their prescriptive privileges,—the first great object is to secure the valuable property in the public forests from fraudulent or wanton injury, and the second to render the produce of these forests available for useful purposes."

23. Sir T. Munro was then Governor of Madras, and extracts from his minute, which he wrote on that occasion (26th Nov. 1822), are given in paragraph 31 of Sir W. Robinson's minute of November 1876. His own views went somewhat beyond those expressed by the Madras Government, for he wrote—"It may be thought that these evils might be obviated, confining the Conservator to the public forests; but this would prove a very inadequate remedy." But even he acknowledged the existence of public forests in Kanara, and said—"In order to protect the property of the public and of individuals in the forests, their limits must first be ascertained, and this can only be done by a survey."

24. The action of the Madras Government was approved by the Court of Directors; but it does not appear that any steps were taken to define the limits of the public forests. For a time, indeed, it would appear that Government, as has often been the case in India, had gone from one extreme into the other. In 1824, the ancient native royalty on sandalwood in Kanara, grown on private property, was formally relinquished, and it is probable other forest rights of Government also remained in abeyance for a time.

But so much is certain, that Government never relinquished its proprietary rights in the forests.

25. One of the points which frequently came up for discussion was Kumri cultivation. On the 30th August 1858, Mr. Fisher, the Collector of Kanara, submitted a report on this subject to the Board of Revenue, of which the following are extracts :—

No. 91, dated the 30th August 1858.

From—W. Fisher, Esq., Collector of Kanara,

To—The Secretary to the Board of Revenue, Madras.

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48. Mr. Blane, when addressing the Board on forest matters on the 31st August 1847, observed that one of his greatest difficulties arose from the absence of all definition of the rights of private individuals, and the facility which this has afforded the people for putting forward claims to the jungle as private property. He pointed out that the jungles of Lower Coorg had, in the course of a very few years, been ruined by Mangalore speculators, who, on the strength of an order that ryots might cut teak on their own lands, bought whole tracts of forest as portions of Wargs, and worked them until no timber of any value remained.

49. Mr. Blane further illustrated the manner in which claims are brought forward in this district, however little ground there may be for advancing them, by alluding to a case before him, in which a merchant professed to have bought certain teak trees from the ryots, and the Coombla Arasoo claimed them as having been felled on his ground, whilst a reference to the old servants of the Coorg Raj showed that neither this Arasoo or the ryots under that Government had any rights whatever in forest land. Neither in Coorg or Mysore had the ryots any forest rights beyond supplying themselves with timber for their own houses and for agricultural purposes, and this could only be obtained by an order from the Amildar.

50. It may be further argued, that such rights as are now sometimes claimed in Kanara with respect to forest lands had no existence formerly, from the fact that in that portion of this district south of the Chandraguery River, where the population is mostly Nair, and almost all the more wealthy families hold land both in this district and in the adjoining province of Malabar (where nearly all forest is allowed to be private property), the extent of our ryot's Kumri holdings, or rather the extent of them years ago, is entered in the Doormooti* Chittas as so many paddy pads, thereby showing that forest not so entered belongs to the Sirkar. Without staying to examine what a paddy pad was, it will be sufficient to allude to the term as showing that some definition was given in the accounts of the rights of the ryots in forest land as well as in the soil suited to regular agricultural operations.

* Fasli 1211.

51. We find then that even in the southern taluk of the province, which adjoins Malabar, the Sirkar had admitted proprietary right in forest lands.

52. On crossing the Chandraguery River, and entering the Tula† country, the Government possess all forests to the exclusion of the ryots; and as we go further north, and enter, first, the Kanarese, and then the Concani and Maharatta portions of the district, the only claims made to forest lands by ryots rest on grants said to have been made by this or former Governments, or on the Kumri shist appearing in the Sirkar accounts.

† Formerly under the Mysore or Coorg Government.

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63. There can be no doubt as to forest tracts generally being in this district the property of Government, as, with the exception of one taluk, Kumri holdings are altogether undefined, though this is not the case with the regular cultivated portions of estates, and there has always been Sirkar Kumri as well as that attached to estates. The collections made by former Governments on this account were entered as poll-tax, and there is little reason to doubt that the only difference between Sirkar Kumri Korlaya and the Korlaya paid by Wargdars consisted in the one being levied direct from the Kumri cutters themselves, whereas Wargdars were allowed to collect this from those people either cultivating portions of their land, or otherwise under their influence, on paying a specified sum as part of the demand on their estates. This shist, moreover, was increased when a new tenant or other individual took up Kumri cultivation under a Wargdar, but the shist on the regular estate was fixed.

And the Madras Government passed orders on the question on the 23rd May 1860 in the following terms :—

No. 830, dated the 23rd May 1860.

Orders by the Government of Madras.

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4. The subject of Warg Kumri appears to be now brought before Government for the first time; but it is one which calls for a decision. It is fully discussed in the Collector's report and the Board's Proceedings. It appears that certain proprietors of land in parts of Kanara, and some persons not holding land at all, claim to have exclusive and proprietary

rights of Kumri over extensive tracts of forest land, so that no other persons can cut Kumri within those tracts without their permission; while their own rights, they allege, to make or allow Kumri there at pleasure, can no more be interfered with by Government than their rights over their ordinary landed estates. These claims appear to have been acquiesced in for many years by the Revenue authorities of the district; but when subjected to investigation by a late Collector (Mr. Blane), they were found to stand on no good foundation.

5. The Kanara term Warag or Warg is well known; it has usually been understood from the days of Sir T. Munro downwards to signify the landed estate; but Mr. Blane shows conclusively that it is only so used in a secondary sense. He points out that the term Warag or Warg really signifies not an estate, in the English meaning of the word, but simply an "account" or list. A ryot's Warag signified his account with the Government, just as the same term is used by a shopkeeper in Kanara to signify the account of each of his customers with him. It became usual to use the word in speaking of a ryot's holding, and in process of time the word has come to be employed in revenue language to signify the estate. As the Warag and the patta, in the cases now in question, contained a certain amount of "Kumri shist," the extent of forest for which it was payable being, it seems, also stated, it came to be supposed, in consequence of the double meaning above referred to, of the term Warag, that these forests were part of the "estate," but this was a great error.

6. Mr. Blane was of opinion, after careful consideration, that the entry of "Kumri shist" in a Wargdar's patta gave him no claim whatever to any forest as property; that it was simply of the nature of a rent, such as grazing rents or rents of the privilege of collecting wax and honey. And he was led to the conclusion that the item of Kumri was in like manner formerly rented out, on account of the difficulty of watching the Kumri-cutter. On the adoption of yearly pattas by Colonel Munro, rents of all kinds were included in them. Most of those miscellaneous items have since been transferred to "Extra Revenue," but the Kumri shist being connected with the land was allowed to remain; and the distinction between this and the assessment on the holder's land being lost sight of, and the term Warag having come, as above explained, to be used in the sense of "estate," the idea arose that these forests formed a part of the estate.

7. In confirmation of this view, it is now further stated by Mr. Fisher, after examination of the old accounts, that the yearly accounts from Fasli 1209 (1799-1800) being apparently the first year of the pattas to Fasli 1225, carefully distinguished the shist or assessment of rice land from that of Kumri; and that up to Fasli 1231 (1821-22) the Kumri collections were entered in the Muhtarafa accounts as "Kumri Korlaya,"* a proof of the view then taken of the nature of this item as a casual and variable branch of revenue. Since that year, it has been entered under the head of land revenue by order of the Board, because issuing from the land; but that of course does not alter its nature.

8. The Board give their decided opinion against the validity of any claim to proprietary rights in forest based on the entry of "Kumri shist" in the patta or the account of any estate. They regard it as simply a rent or farm of the privilege of cutting Kumri in the tract in question, the continuance of which must depend on the pleasure of Government. The facts detailed in their proceedings seem fully to bear out this view.

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16. It now remains for Government to decide as to the future treatment of Kumri. First of Wargdar Kumri as above described; the Government see no good reason why this should be dealt with so tenderly as the Collector and the Board advise. Both those authorities wholly disallow any claim of right on the part of the Wargdars; and if it is fair and just to abolish these Kumri rents in Soopa and Yellapur, simply remitting the annual payments on that account, no reason appears why the same should not be done in all the other taluks also. The Wargdars have, it appears, no better ground of right in other parts than in those two taluks; yet in other taluks, though Wargdar Kumri is abolished, double the amount of the shist is paid to the Wargdar. The proper course will be simply to remit the shist, as in Soopa and Yellapur, and this will be done for the future.

17. In Bekal taluk alone Wargdar Kumri has not been abolished, and the continuance of the existing system is recommended both by the Collector and by the Board. The practice stands on no better ground of right there than in North Kanara; but the reasons given for permitting its continuance are—first, that this taluk adjoins Malabar, where there is no check on Kumri; and second, that it is so general in the taluk. The south part of Bekal not only adjoins Malabar, where, as already said, Kumri is unrestricted, but also forms a part of the old Nair kingdom, and has still its Nair population and customs. The idea of an inherent right to the waste does not appear to be extinct, and the Kumri culivation is there carried on as a regular part of their farming by the resident landholders, and not by wandering tribes unconnected with the soil as in North Kanara. At once to stop the Kumri which is there cultivated as in Malabar, would be harsh. The Government, therefore, assent to the Board's recommendation that Kumri in the Bekal taluk should be allowed to continue for the present,

* The following is the meaning of this term as explained by the Collector, Mr. Harrison, in 1822:—

"Kumri Korlaya is the jungle of the ghâts to cut down with the Korlaya or bill-hook by a race of men (Mallei Kudigul) who inhabit the ghâts and never descend into the lower country. They depute a headman to the renter on the part of the Sirkar annually to arrange their barter of hill produce, such as cassia, pepper, cardamoms, raggy and wax. The renter gives them cloths, rice, tobacco and arms in return. For this permission, he enters into darkhast with the Sirkar."

but they wish the Board to consider and report whether there is any reason why the tax payable should not be raised to one rupee, the rate levied in North Kanara. Even that rate is very light compared with the profit derived, as noticed above in paragraph 15.

18. The Government also assent to the Board's recommendation (paragraph 4) that the Collector should be allowed to relax the rule as to distance from a river when he shall consider it proper; but they wish this permission to be used with much moderation.

19. With regard to Sirkar Kumri, it seems to be a great evil even as respects the interests of the cultivators themselves. It appears certainly to retard the improvement of the forest races, and tends to keep them in their present degraded condition. It has been already noticed that in Mysore the practice of Kumri cutting has been entirely abolished; and that in the jungle districts of Bombay, it has been so very nearly. The Government now prohibit Sirkar Kumri, or Kumri cultivation in Government forests without previous permission. This permission should be given sparingly, and never for spots in the timber forests.

These orders relate both to South and North Kanara, the latter district having been transferred to Bombay in 1862. It is clear that Government exercised proprietary rights in the forests, by prohibiting and regulating Kumri cultivation. But they also exercised these rights in other ways, and the Wargdars have not, as a matter of fact, been in possession of the forests, but have only enjoyed certain rights to the use of wood, leaves, and other forest-produce in them.

26. In 1868, the Acting Collector, Mr. Thomas, brought several matters, which had arisen in connection with the forest tenure in that district, to the notice of the Board of Revenue. One of them is known as the Kumaki question. Kumaki is the wood-land adjoining the stretches of paddy fields, which occupy the low ground in the valleys. Kumaki land is analogous to what is called Rab land in the Konkan, and is used for grazing, but chiefly to furnish branches and leaves which are spread over the fields, are burnt, and serve as manure for the paddy. The extent of these Kumaki lands was doubtful; but, as a rule, it was supposed that all the Wargdars exercised rights of user for the purposes of pasture and manuring their fields over a belt of forest 100 yards wide, adjoining their estates. Latterly, Wargdars have claimed not only rights of user, but proprietary rights in these Kumaki lands. Another matter referred for orders was the assessment that should be levied on Kumri cultivation.

27. When these references were considered by the Board, Sir William Robinson, who was then second Member, recorded a minute, dated the 3rd December 1870, in which he reviewed the history of forest tenures in South Kanara. The object of this minute was to show that, with inconsiderable exceptions, the great bulk of the land in South Kanara, including the forests, was private property. He founded his conclusions chiefly upon statements made in a report on South Kanara by Major (afterwards Sir Thomas) Munro, dated the 31st May 1800, and upon other documents written soon afterwards. The purport of these statements, as interpreted by Sir William Robinson, was, that all forest and cultivated land in the district alike was private property. But there is good ground to believe that Major Munro, in using expressions like these "all lands are private property," only referred to the cultivated lands, and did not include the great uninhabited forests of the hills and ghâts.

28. The Proceedings of the Board of Revenue on this subject, dated the 21st March 1871, contain a clear and complete review of the general question in the following terms :—

No. 1222, dated the 21st March 1871.

Proceedings of the Board of Revenue, Madras.

These papers involve the question of the right of Government to forests in South Kanara. In the letters from the Collector and the Conservator, whether they refer to Kumri, Kumaki or forest conservancy, it is assumed that the forests all belong to Government. In this they are justified by the tenor of all reports from Collectors, Proceedings of the Board, and rulings of Government for many years. The Honourable Mr. Robinson, second Member of the Board, now absent on duty, believed this position to be unsound, and the disposal of the papers was delayed whilst he collected the information embodied in his minute of the 3rd December 1870.

2. The opinion now prevalent as to the rights of Government over forests in South Kanara rests on the assumption that, in the absence of grants from Sovereigns, the right to the soil cannot belong to private proprietors. Thus, in 1838, the Collector, Mr. Blair, said that the principal forests in the Maganies lately added from Coorg were claimed by private proprietors, but the claims rested on prescriptive right established by enjoyment *rather than on sanads or other documents conferring a proprietary right.* In 1839, Mr. Maltby stated that the Government

right in jungles and waste had never been clearly defined, and that extensive claims were preferred which he thought doubtful, but which were recognized by the people. In Bekul, for instance, only fourteen small patches of jungle were admitted to belong to Government. In 1847, Mr. Blane spoke with greater certainty of claims to jungles which he was persuaded due inquiry would show there was no real title to, but even he saw the necessity of such an inquiry, and recommended that Government should assert its rights and challenge private titles by a distinct declaration. This has never been done, but the conviction of the right of Government gained ground, till in their Proceedings of the 15th February 1864, No. 986, the Board pronounced themselves satisfied that no claim to forest land as part of a Warg need be admitted unless unquestionable evidence of a State grant was forthcoming. In the letter recorded in Board's Proceedings, 24th June 1868, No. 4664, Mr. Cadell speaks of the claims of private proprietors to the forests and waste of the five Southern Maganies of the Kassergode Taluk as having then been brought forward *for the first time.*

3. That the assumption on which these dicta are based is open to attack may be shown by quoting Mr. Thackeray's report of the 4th August 1807: "It may be said that original grants conferring the right of property to the original grantees should be produced * * *, but it may be answered that perhaps in no country, at least in no country long settled and civilized, do such original grants or title-deeds exist * * *. Deeds transferring land are to be found in Kanara and in England; grants conferring Sirkar lands are forthcoming in both countries; but perhaps in neither country original grants or deeds conferring or establishing the primitive right of property in the soil could be found, for they most likely never existed."

4. The strong opinion given by the Board in their Proceedings of the 14th February 1864, No. 986, alluded to above, seems to have been founded chiefly on a report from Mr. Harris, dated the 13th September 1820, quoted by Mr. Thackeray in his Minute of the 8th August 1832, page 13, and by Mr. Robinson, paragraph 79. They do not arrive at the same conclusion as the Board, and the report is certainly far from showing that no private right in forests existed without a public grant.

5. It would be impolitic to attempt to modify the prevalent opinion in this as in other similar cases, if it rested on a consensus of the authorities from the time when British administration began, or if it had even been established by a searching inquiry conducted on the spot, but this is not so, and the Wargdars of South Kanara have a right to a hearing which has never yet been conceded to them.

6. A great part of Mr. Robinson's Minute is devoted to proving that the proprietary right in the soil belongs to private proprietors to a far wider extent in Malabar and South Kanara than in other parts of the Presidency. This is generally admitted, and cannot be contested in the face of the evidence collected by Mr. Robinson; but it is only of importance in the consideration of the present subject as diminishing the *à priori* probability that the forests belong to Government, or, in other words, necessitating some proof of the title of Government in cases where it is denied.

7. It must, the Board think, be conceded that if when writing of "lands" the old authorities meant to include in the term primeval forest, Government have no right to any part of it, except to such as is unclaimed or has escheated for want of heirs or otherwise, but a careful analysis of their language serves to show that this is not the case. In reporting on the circumstances of their district as Revenue officers, the Collectors naturally confined their attention to such lands as were or might become capable of cultivation. Just as the Circuit Committees in calculating the assests of estates for the permanent settlement left the forests out of consideration because they were not remunerative then, and it was not foreseen that they would be remunerative in the future, so the Collectors of South Kanara in writing of "lands" did not think of the great primeval forests of the hills and ghâts.

8. "The right of Government to the forests of which it assumed the royalty in 1807, *viz.*, those which lie along the bases of the ghâts and occupying those woods and mountainous tracts that are not inhabited, where forest trees grow spontaneously without human aid," has probably never been questioned.

9. Thus in the phrases "all lands were private property,"—"the accounts * * * took no notice of waste lands,"—"all land was private property,"—"the only land that can in any way come under the description of Sirkar land is unclaimed waste,"—"all public documents convincingly testify that Sirkar land was altogether unknown"—"almost all land is private property"—used by Munro in 1800, it seems clear that he is not alluding to primeval forest, or he would certainly have mentioned it specifically. It is impossible to believe that he can have been thinking of the entire wilderness of primeval forests into which the people of those days had never penetrated.

10. On the other hand, it is impossible to accept the opinions of Munro, Thackeray, and Ravenshaw without conceding that many, if not most, of the minor forests adjoining Wargs are private property. For the proof of this position, and of the fact that the claims are still kept alive in the breasts of the Wargdars, it is sufficient to refer to Mr. Robinson's Minute *passim*, without encumbering these Proceedings by quotations.

11. Hitherto collision between Government and private proprietors has been avoided for the most part, but now that forests are valuable property, it is certain to occur more frequently, and the danger must be put an end to. One of the proposals now before the Board, that all waste and forest-land shall be lightly assessed and given to Durkhastdars, cannot be adopted

without precipitating the crisis. There has been no survey in the district, the boundaries of the ancient Wargs are not specified in any Government records, and it is as true now as it was in 1820 that "there is no subject on which so little information is to be gathered as on the forests of Kanara." The only way to remedy the present uncertainty is to give the people an opportunity of registering their titles in much the same way as has been done with regard to Inams. As a preliminary, the Collector might call for titles, and after examining a sufficient number, report on their nature and value, so that rules might be framed as to what should be admitted and what rejected. A survey would probably be necessary; it has often been proposed, but the fact that it would be more for the benefit of the Wargdars than of Government has prevented its being carried out. Now that the forests are so valuable, this consideration loses much of its weight. The Board do not doubt that documentary evidence of titles will be forthcoming. Munro declared in 1800 that there were more title-deeds in Kanara than in England, and that they had stood more trial; nor is there sufficient reason to believe that these private documents have been exposed to any wholesale destruction. There are probably few royal grants, but bills of sale and deeds of gift specifying boundaries may, under certain circumstances, be good evidence.

12. The Board believe that the claims of the people will be found to be far more limited than Mr. Robinson supposes. In the depositions submitted to the Board in Mr. Harris' report of the 13th September 1820, the inhabitants of Buntwail, while maintaining their right to Kumaki in its widest sense, fully admit the ownership of Government in the great forests. In the survey of the holdings in Barkur made in 1801, though the *jungly waste* included in the holdings was 82 per cent. of the whole, there is nothing to show that it was the whole of the forest included within the circuit of the Magani. The very existence of the opinion now prevalent shows that the rights of Government must be extensive. The old descriptions of Kumri and Kumaki seem to show that such rights or privileges were exercised in a limited extent of jungle, and that all outside it was public property.

With regard to the general question, the Board submitted the following proposal for the orders of Government :—

"That the Collector be directed to call for and register, after due enquiry, all titles to landed property, carefully defining boundaries, and to report on the nature of the titles, after sufficient information has been acquired."

29. On these Proceedings, the Government of Madras passed orders on the 23rd October 1874. Sir William Robinson was then a Member of that Government. The purport of these orders will appear from the following extract :—

No. 1361, dated the 23rd October 1874.

Orders by the Government of Madras.

From the Proceedings of the Board of Revenue, dated the 21st March 1871, No. 1222, and the papers therewith recorded, it is abundantly evident that the attention which has been given of late years to forest-lands, and the anxiety to enforce proper conservancy, has led to a misapprehension regarding the proprietary rights of landholders or Wargdars of Kanara, similar to or even exceeding that which arose between 1815 and 1822, when the forests of Malabar and Kanara were worked under the orders of the Bombay Government.

2. It appears that the people of Kanara do not at all acquiesce in the present action of the local officers under recent orders; and although collisions between Government officers and private proprietors have hitherto, for the most part, been avoided, yet difficulties have arisen; and the Board of Revenue are of opinion that now that forests are valuable property they are certain to occur more frequently, and the danger must be put an end to.

3. The first step, which it seems necessary to take, is to re-affirm the position taken by the Madras Government in 1822, when, with the approval (subsequently conveyed) of the Court of Directors, they informed the Government of Bombay that they should instruct the district officers of Malabar and Kanara that the authority of the Conservator of Forests extended only to the timber and trees produced in the forests belonging to Government, and that, with respect to all other trees and timber, his control over them must like that of any other person arise from private contracts with the proprietor.

6th December 1822.

* * * * * * * *

8. The Government consider that the proposal to call for and register all titles to land would be wrong in principle and hard on the people if followed out to its legitimate conclusion, of declining to recognise private property in all cases in which no written title was forthcoming, or the title produced appeared to be defective. There seems to be no sufficient ground for declining to accept in its literal sense the statement of Sir Thomas Munro that "the only land in Kanara that can in any way come under the description of Sirkar land is unclaimed waste."

* * * * * * * *

10. The demarcation of valuable forests admittedly the property of Government should be at once taken in hand, and the Collector will report the steps he would propose to adopt for this purpose. He should also submit revised recommendations with regard to all references to the

Board subsequent to their Proceedings now reviewed, which have not yet been disposed of, and which seem to be affected by the orders now issued.

In November 1874, the Collector, Mr. Webster, requested further orders, and the Madras Government issued the following instructions regarding the demarcation of Government forests :—

No. 271, dated the 20th February 1875.

Orders by the Government of Madras.

4. As regards the demarcation of valuable forests, admittedly the property of Government, the best course will be for the Forest Officer to submit lists of the forests which it would be advisable to demarcate. A scrutiny of this list by the Revenue Officers will probably lead to the elimination of a considerable number without any detailed enquiry; and Notifications should be issued as regards the remainder, specifying each forest by name, and stating that unless valid cause to the contrary be shown within three months, the Government will proceed to demarcate and reserve them. Any claims brought forward in accordance with the Notification will be examined by the Collector or his Assistant in the spirit of paragraph 14 of the Collector's letter. In the case of valuable forests turning out to be private property, the Collector will at once ascertain the terms on which a lease of the forests can be obtained by Government.

5. When claims are rejected, the claimant should be informed that the demarcation will be proceeded with unless an injunction is received from the Civil Courts within a reasonable period, say three months.

6. The Deputy Conservator of Forests must submit the list of forests selected by him within, *at the latest*, three months from the date of receipt of the Collector's instructions. He will not, however, be precluded from submitting a supplemental list.

30. In accordance with these orders, the Collector, Mr. Webster, proceeded to invite claims to forests and to pass orders on such claims, his orders being guided by the principle adopted by the Madras Government, that *primâ facie* all land in South Kanara is private property. One of his decisions, giving up a large area of forest situated in the vicinity of the ghâts in the Upperangadi taluk he submitted for the orders of Government, with a memorandum showing the principles on which the enquiry had been held, and the general reasons for his decision. The following are extracts from these communications :—

No. 1816, dated the 21st September 1875.

From—A. McC. Webster, Esq., Collector of South Kanara,

To—The Secretary to the Board of Revenue, Madras.

* * * * * * * *

6. I beg to call particular attention in my decision in the case of Aya Pandy's claim to Sale Male (*vide* paragraphs 7 and 8 of my decision), as I have, in carrying out what I conceive to be the intentions of Government, admitted his right to an extensive tract of jungle as it was entered in his sale deed; because his predecessors in occupation of the Warg enjoyed it, and because in the old returns submitted in Fasli 1232 it was not entered as a Government jungle. I have admitted the claim on these grounds, notwithstanding that according to his statement the Munsif's Court about the year 1851 refused to put him in possession of the jungles.

* * * * * * * *

9. Although the jungles I have visited cannot be now profitably worked, they fringe the head waters of the Netrawathy, and would, if carefully preserved, grow a quantity of good timber which might hereafter become of value. They have, since the indiscriminate cultivation of Kumri was stopped, got a fair start, and it seems a pity that they should now be destroyed. However, they have been found to be private property, and it only remains to consider whether, in the interests of the country generally, this destructive species of cultivation should continue to be restricted. The Malekudies formerly in the habit of cultivating Kumri have not taken up rice lands for themselves, or are working as labourers on their Mulgar's rice lands, so that Kumri is not so necessary here as it is in the Kundapur taluk. As the jungles are private property, the cultivation can only be restricted by a Forest law, or by the imposition of a high rate of assessment. Either of these measures will interfere with rights of property; but, as the question is one of public good, I have the honour to request the attention of the Board to the subject.

* * * * * * * *

MEMORANDUM.

8. The effect of the Government decision quoted in the 1st paragraph of this memorandum is to re-affirm the old principle that *primâ facie* all land is private property, and that only unclaimed waste, or land the claims to which were absolutely without foundation, could be declared the property of Government.

9. I will now refer to paragraphs 98, 99, and 100 of Mr. Robinson's minute published in the Board's Proceedings, dated the 21st March 1871, No. 1222. Mr. Harris' orders were issued some months before the receipt of the final orders of Government, but he seems to have anticipated those orders as quoted in paragraph 96 of the above minute. The vernacular orders issued to the Tahsildars directed them to inquire and report what Government jungles there were in their respective taluks, and the number of good trees growing therein.

10. In paragraph 103 of the minute allusion is made to a letter from Mr. Harris, in which he states that his inquiries as to the Government forests reserved from ancient times as royalties was still (in May 1823) going on. It does not appear that the final result was ever reported to the Board.

11. All the records of the Collector's office having been destroyed in the Coorg insurrection, the original returns submitted from the taluks iu accordance with Mr. Harris' vernacular orders have been lost; but I have obtained from the taluk records the office copies of the returns submitted. The return for this part of the district which originally belonged to the old Bantwal taluk could not be found at first, but on a more thorough and careful search the returns submitted to the taluk by the village officials have quite recently been discovered. Their genuineness is unimpeachable. The office copy of the Tahsildar's general return for the taluk, which was presumably based on the Magani returns, has not however been found.

12. From these returns it appears that in the portion of the present Upperangadi taluk to the north of the Kumardari river there were at that time only eleven Government jungles.

* * * * * * * *

20. In many cases, the people in now claiming jungles only ask for permission to use the jungles as hitherto, *i. e.*, for leaves, trees, firewood, &c., for themselves, and also to be allowed to cut Kumri therein. This would seem to show that they formerly had only an easement, and are only entitled to that now. It must, however, be remembered that there was formerly no market for the timber, other and more accessible localities being open to the timber merchant; and that the only use they could possibly make of their private jungles was for leaves, firewood, and trees for their house-building and for the cultivation of Kumri. The very moderation in the wording of their petitions shows that they are claiming no new rights, though their claims involve at the present day, when communications have been improved, the power to dispose of the produce of their jungles.

* * * * * * * *

24. Such being my opinion, the only forests that can be reserved in these blocks are—

(1.) Those to which no claims have been preferred.

(2.) Those attached to Sirkar Gueny Wargs, the proprietary (mooly) right to which by the custom of the district technically vests in Government.

(3.) Jungles which are claimed or used by more than one person.

25. With reference to the first class of jungles defined above, although no claims have been preferred, and I have accordingly sanctioned their reservation, claims may hereafter be brought forward. In the case of a portion of the Bellilli jungles (*vide* paragraphs 16 to 31 of my decision), the reason for no specific claim having yet been preferred is that a portion of the Warg has been sold by the Mulgar. The purchaser thinks the assessment put by the sale-deed on his portion too high; he has not paid the arrears thereon, and wants to get off his purchase. He therefore will not claim any jungles that may by custom have been attached to his share. The seller, on the other hand, is afraid that as the Warg has not been regularly divided and the assessment apportioned, his share may be sold for the arrears on the other share, and will not therefore apply for those jungles. He has therefore only claimed the jungles attached to the portion of the estate remaining in his possession. There are very extensive jungles attached to this Warg, and known by the name of the Mulgar (the Bellilli Hebbara) as the "Bellilli Male." Indeed, they extend, with the exception of a few jungles belonging to another village, along the whole north and east sides of the Bangadi valley. Now, although the jungles have not been formally claimed, I know that they all belong to a Warg. For the present, therefore, I shall reserve these jungles until the seller and the purchaser have settled their differences.

26. As to the second class of jungles. The proprietary (muli) right of the Wargs vests technically in Government, as no mulpatta has been given. As forests are now valuable property, I think there can be no objection to reserving the forests attached to these estates for Government, but the Gueny Wargdar must be allowed to use the jungles for his private and agricultural purposes, though he will not be allowed to cut Kumri or sell the produce. This will allow the Forest Department to conserve the good trees.

26-A. Although I have resolved to assert the proprietary rights of Government to the forests attached to these Sirkar Gueny estates in the same manner as the rights of Government have been asserted to the Nerya cardamom jungles, which also belong to a Sirkar Gueny estate, I must call attention to the remarks of the earlier Collectors on these estates quoted in Mr. Robinson's minute. In paragraph 110 of the minute, the Collector in 1826 remarks "that these Sirkar Gueny estates are always granted on mulpattas to any one who will pay the beriz fixed upon them, and thus they will come under the denomination of private property."

Again, in paragraph 120 of the Minute, the Board directed that "it should be carefully made known throughout the district that the Government are anxious that proprietors *and Sirkar tenants* should enjoy the full benefit of the growth of cassia (a jungle product) *as well as every other product within the boundaries of their estates.*" No mulpattas have, as I have before stated, been granted for the existing Sirkar Gueny estates, but many of them have belonged to families for generations, and are all but in name muli estates. It may be, therefore, that I am wrong in asserting Government rights to the forests attached to these estates, as the precedent of the Nerya estates occurred before the opinions above quoted were brought prominently to notice. And the Government may now consider that such forests should be excluded from demarcation.

27. The third class of jungles, as I have above stated, have been ordered to be reserved as village jungles, because no exclusively private claims have been admitted by the villagers, and because it has been proved that they are used by several persons, and because the present villagers state that on examination some lists of Government jungle may be found therein.

28. I attach maps of the blocks as prepared by my Deputy Conservator from the old survey maps, and have marked therein the different jungles which have been reserved under one or other of the classes. I have not taken notice of the outlying hills consisting of scrub or grass land lying between the numerous valleys of paddy cultivation, as they are all within the Nettikut (Nirnetty, crest of hill) of some Warg or other, and as such must belong under the old custom of the district to private persons. I must observe that the maps do not correctly show the cultivation which existed at the time they were prepared. The old garden and rice lands scattered through the jungles which were then existing have not in many cases been entered.

29. In conclusion, I subjoin a concise statement showing the number of, and where reported, the extent of the Government jungles in the district prepared from the returns submitted to Mr. Harris in Fasli 1232. The extent, however, is only an approximation and rather excessive :—

	Number of Government jungles and lands.	Extent of when reported by Talusildar.	
		Square koss.	Square mile.
Kasagode taluk	16	2·0	12·50
Mangalore „	.....	.....	.....
Upperangadi taluk	.....	.....	.....
Three Maganies formerly part of old Bantwal taluk ...	11	34·21	213·86
Udipi taluk, formerly Barkur	28	51·33	320·80
Kundapur taluk	12	2·37	14·84
Total ...	67	89·92	562·00

31. Upon these reports, the Board of Revenue and the Madras Government passed orders as follows :—

No. 413, dated the 11th February 1876.

Proceedings of the Board of Revenue Madras.

With his letter above recorded, Mr. Webster submits his decision on the claims brought to jungles in the north-east corner of the Upperangadi taluk with a memorandum setting forth the principles on which the inquiry was conducted and the grounds on which his decision was based, with the view to obtaining an expression of opinion as to whether they accord with the views and intentions of Government. These papers will accordingly be submitted for the orders of Government.

2. Mr. Webster's report is very clear and his decisions appear to be in full accordance with the principles enunciated in G. O., dated the 23rd October, 1874, No. 1361, which have received further confirmation by the discovery since their issue of the original returns submitted by the village officials in this part of the district in accordance with the vernacular order issued by Mr. Harris in 1823. These returns show that at that period almost all the jungles were claimed by some proprietor or other, and that in that portion of the Upperangadi taluk to which Mr. Webster's inquiry relates, there were only eleven Government jungles. Mr. Webster, accepting the principle that nothing was to be taken as Government land to which any Wargdar could advance a colourable claim, has dealt with all claims in a liberal spirit, acknowledging titles which appeared to have been valid in former times, even when the evidence of their existence in later times is defective, owing to the omission to mention jungles and hills in sale-deeds, probably in consequence of an impression having got abroad that the right was not recognized by Government. The special case referred to in paragraph 6 of Mr. Webster's letter is a good example of the manner in which proprietary rights formerly over-ridden and set aside under views, which are now seen to be mistaken, are now being recognized and restored.

3. Mr. Webster appears to have recognized fully all the rights which the Government desire should be acknowledged. He has abandoned rights which have been claimed of late years; but it appears certain that recent claims on behalf of Government have not always been just, and cannot therefore be too soon abandoned. The Board are confident that these measures will have a beneficial effect on the properties, and from their manifestly just and liberal character, exercise an excellent influence on the feelings of the people.

4. The Board think that Mr. Webster is justified in asserting the rights of Government in the case of the Sirkar Gueny estates mentioned in paragraphs 26 and 26A of the memorandum. The holders of these estates will benefit by the distinct recognition of their right to use their jungles for private and agricultural purposes without molestation; but it seems unnecessary and undesirable to confer unlimited rights to the forests which apparently the tenures do not necessarily convey, nor the holders expect. Even if former orders would give some colour to a claim that these tenants should be placed on complete equality with old proprietors, the step does not appear to have been ever practically taken, and there is no necessity for it now when the spirit of the treatment of jungles and forests has been so completely altered.

5. As a great proportion of the land that has hitherto been looked on as Government forest will certainly now be delared to be private property, the policy of securing control over forest tracts by obtaining leases on behalf of Government should receive careful attention. Where there are extensive tracts of fine timber, with capabilities for working them in future, the fact of their being at present inaccessible should not be held to obviate the necessity for endeavouring to secure leases for long terms, renewable in perpetuity. It may be possible now to secure leases that hereafter it would be very difficult to obtain. If the terms take the shape of the payment of a comparatively small sum down and a stump fee according to the extent of felling hereafter, the first payment and some small establishment charges will be the only expenditure till regular working is found remunerative or desirable. Meanwhile, the possession of the lease will enable Government to restrict or interdict Kumri or any operations within the tract in question that may interfere with the natural distribution of the rainfall by extensive clearances near spring heads, along hill streams, &c. That Government should be able to regulate felling and clearing in many situations apart from mere forest conservancy considerations is most desirable, and it may be difficult to secure this power, save by obtaining leases, where private proprietary rights have been acknowledged. To obtain the power of control by lease, appears in many respects preferable to the attempt to exercise it by such methods as prohibitive assessments, or stringent forest enactments, and with due discretion such lease arrangements could generally be made to pay any contingent expenses even when they are not, as they often would be, more or less highly remunerative.

6. Mr. Webster points out that in the tracts to which all claim on the part of Government is abandoned, there is nothing to prevent the resumption of Kumri clearings. This will be matter for regret; but it is possible that when Wargdars are placed in absolute possession of their jungles, they may in their own interest put some check on Kumri clearings, and the Collector may perhaps be able to influence them to some extent in this direction.

As already observed, however, the Board consider that judicious leases afford the best means of protecting valuable forest tracts from reckless destruction, and the Collector's special attention should be directed to this point.

7. The Board have carefully considered the question whether any royalty claims appertain to Government in respect of valuable timber growing in those extensive tracts of jungle which are about to be relinquished, and whether Government, whilst freely restoring proprietary rights which have been infringed, would not be justified in asserting seigniorial rights. Looking to the fact, however, that the only royalty of the existence of which there is clear evidence in ancient times, *viz.*, the sandalwood monopoly, was deliberately abandoned in 1824, that the proprietary rights of Government in respect of teak and poonspars do not appear to have been ever satisfactorily established, and that the reservation of other descriptions of wood within the limits of private property is an innovation of comparatively recent date, the Board have come to the conclusion that no such claim is tenable.

No. 479, dated the 5th April 1876.

Orders by the Government of Madras.

The Governor in Council concurs in the opinion of the Board of Revenue that Mr. Webster's decisions are entirely in accordance with the principles enunciated in G. O. dated the 23rd October 1874; that they will have a beneficial effect on the properties of the Muli Wargdars, and cannot fail, from their just and liberal character, to exercise an excellent influence on the feelings of the people.

2. But His Grace in Council would go further; he shares the Collector's hesitation in pressing the long disused rights of Government, as proprietor, over the wood-lands on the estates known as 'Sirkar Gueny,' the occupants of which have held them for generations, and might, as the correspondence shows, have long since claimed the mul patta. He resolves therefore to direct that they be treated precisely as Mul Wargdars in the matter of the forests belonging to their Wargs.

3. No pains should be spared to induce the owners of forests to make a lease of them to Government, where the Collector considers that such tracts would not otherwise be judiciously conserved.

32. The Upperangadi taluk to which these papers relate, is situated in the easternmost portion of the district, north of the Munjerabad—Mangalore road, at the foot and on the slopes of the ghâts, which here sweep round to the west. A great portion of it is a dense forest country, and if the orders of the Madras Government are correctly understood, the probable result will be that the whole will be declared private forest.

33. The following points in these proceedings merit special notice:—

First.—The Collector has partly based his decision upon certain returns supposed to have been submitted in 1823 to Mr. Harris, who was Collector of Kanara at that time. But the returns actually submitted have been destroyed, and the documents relied upon are supposed to be the papers prepared by the village officials. Translations of two of these papers are given in the Collector's memorandum, and so much is clear that these returns merely show the opinion held at the time by the Potails on the subject. These Potails probably were Wargdars themselves, and had some interest in the matter. The value of these documents in a question of such importance is obviously not very great. The circumstances under which these returns were called for are adverted to in paragraphs 97 to 101 of Sir William Robinson's minute of 1870, and in paragraph 37 of the minute of 1876. Mr. Harris' order calling for these returns does not seem to be forth-coming, unless it is the order of January 1822, the substance of which is given in paragraph 98 of the minute of 1870.*

That order distinctly says: "By Government forests you will understand only such as are marked off for felling timber for ship-building purposes." This evidently refers to the operations of the Bombay Conservator of Forests which had then lately been closed. Remote forests, such as those on the head-waters of the Netrawathy (the stream, which falls into the sea at Mangalore, and is called Nattravutty on the Indian Atlas Sheet), in which no fellings had been commenced, were accordingly not included. Even now the Collector states that they cannot profitably be worked.

But, as stated before, the terms of Mr. Harris' order calling for these returns are not certainly known, and consequently no conclusions, certainly none adverse to Government, ought to be drawn from the documents which are supposed to be the original returns.

Second.—Paragraph 20 of the Collector's memorandum states that in many cases the people, in now claiming jungles, only ask for permission to use the jungles as hitherto, *i. e.*, for leaves, trees, firewood, &c., for themselves, and also to be allowed to cut Kumri therein, and Mr. Webster adds: "This would seem to show that they formerly had only an easement, and are only entitled to that now."

It cannot under any circumstances be admitted that the right to use certain produce of a forest proves the rightholder to be the proprietor of the forest.

Third.—The Collector states his conclusions in paragraph 24, and says that the only forests that can be reserved in those blocks are—

(1) those to which no claims have been preferred;

(2) those attached to Sirkar Gueny Wargs the proprietary right to which by the custom of the district technically vests in Government;

(3) jungles which are claimed or used by more than one person.

The third class have been reserved as village jungles for the benefit of the persons who claim rights in them. But in reality they are not village forests, but the joint private property of several persons.

The second class the Madras Government, in paragraph 2 of their orders, direct shall be treated as private property and given up to the tenants.

* *Note.*—The terms of a second order, in which the first is averted to, are given in paragraph 100 of the minute and in paragraph 19 of the Proceedings of the Board of Revenue, recorded in the Madras Forest Proceedings for October 1874

Regarding the first class, the Collector explains that claims will probably be brought forward hereafter.

Practically, therefore, the result of this enquiry in one of the most remote and wild forest tracts of South Kanara will be, that all forests will be declared as private forests.

Fourth.—In paragraph 9 of his letter the Collector states the probable consequences of the conclusions which he has formed. The forests, he says, have got a fair start, since the indiscriminate cultivation of Kumri was stopped; they would, if carefully preserved, grow a quantity of good timber which might hereafter become of value. It seems a pity, he continues, that they should now be destroyed, and he then proceeds to consider whether, in the interests of the country generally, Kumri should not continue to be restricted.

The Board of Revenue also say, in paragraph 6 of their Resolution, that it will be matter for regret that the resumption of Kumri clearings cannot be prevented; but they console themselves with the hope that when Wargdars are placed in absolute possession of their jungles, they may, in their own interests, put some check on Kumri clearings, and that the Collector may, perhaps, be able to influence them to some extent in this direction. These expectations are in no way justified by the experience gained in other Provinces of India.

It is stated by the Collector, and endorsed by the Government of Madras, that the forests have been found to be private property. This finding, however, is not supported by adequate proofs. At best, it is an assumption which commends itself to the views entertained by the present Government of the Madras Presidency.

It seems evident from these reports that, in that portion of the Kanara district to which they relate, the orders of the Madras Government will have the effect of constituting certain Wargdars and tenants of Sirkar Gueny estates as absolute proprietors of large extent of forest, in which they have hitherto exercised only certain rights of user for specific purposes.

It has since 1875 repeatedly been urged by the Madras authorities that the forests must be declared private property of the Wargdars in order to protect the rights of the people. It is nowhere apparent from the records what the effect of this measure will be upon the actual cultivators, the tenants, sub-tenants and labourers who are dependent upon the large landholders. The great mass of the people probably consists of these, and it seems a misnomer to designate a small, though powerful and privileged class as the "people of Kanara."

Again, it is admitted by the local authorities, that the destruction of these forests will probably be the result of the orders issued by the Madras Government. Apart from the destruction of the future timber resources, unrestricted Kumri clearings near the head-waters of the rivers and on the slopes of the ghâts will have effects, the extent of which it is impossible now to estimate.

It is very doubtful whether, in the present case, the Madras Government have sufficiently consulted the general interests of the country. The orders of the Madras Government of the 23rd May 1860 prohibiting Kumri clearings, except in the southernmost taluk adjoining Malabar, were dictated by a due regard for the general welfare of the country. These orders were passed after full enquiry into the rights of Government and the Wargdars, and they have been in force for more than 15 years.

The present Government of the Madras Presidency, it is true, considers that those orders were passed under a misconception of the rights held by the Wargdars. We are not in a position at present to decide whether the views maintained by the Madras Government of 1860 were correct; but so much is clear that their views were based upon what had for many years been regarded as the actual state of proprietary rights in the forests of Kanara.

34. Meanwhile, the enquiries progressed, and in April 1876, Mr. Horsfall, who was at the time Acting Collector in South Kanara, submitted a case for the orders of Government in the following letter :—

No. 856, dated the 18th April 1876.

From—J. G. Horsfall, Esq., Acting Collector, South Kanara,

To—The Secretary to the Board of Revenue, Madras.

I have the honour to submit through the Board, for such orders as Government may be pleased to pass, the question of the Parappa jungle. I do so in preference to passing any orders thereon myself on account of its importance as typical of a large class of cases which will have to be determined hereafter in accordance with the orders that may be passed in this case, and because of its special importance to Government on account of the teak plantations that have been established here by the Forest Department and of the teak conservancy which has uninterruptedly been carried on here since the year 1861.

2. Kristna Putturaya, who purchased for 500 Hoons in 1854 from the then Wargdars a considerable portion of Muli Warg No. 1, Mayiala Village, Adur Magani, claims to have obtained by virtue of such purchase all the jungles lying around and about the several plots of cultivated land, that is, at a rough calculation, some 12,000 acres of jungle, including the young teak plantations and the tracts hitherto conserved by the Forest Department. He claims also to be exempt from any further assessment, whether new land is brought under cultivation (Hossagame) or for Kumri or for dry cultivation.

3. Muli Warg No. 1 is shown in the Durmuti Chitta of 1801-2 as follows :—

Byle	17·20
Majal	24·20
Bett	30·0
Garden—	
Cocoanut trees...	219·
Areca trees	366·

But by the survey made in Fasli 1266, the following results were obtained :—

Byle	24·20
Majal	77·5
Bett	17·30
Garden—	
Cocoanut trees	664·
Areca trees	999·
Palmyra trees	3·
Pepper vines	372·

and the assessment thereon was Rupees 145-6-0, made up as follows :—

Shist.			Shamil.			Total.		
Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
52	9	7	92	12	5	145	6	0

The present assessment is Rs. 149-6-9, which includes an item of Rs. 4-0-9 imposed in Fasli 1263 for Hossagame, and the portion of assessment charged against Kristna Putturaya is Rs. 137-6-0, the remainder being still in the name of Subbamma, the original Wargdar. The assessment has, therefore, with the slight exception of the addition made for Hossagame in Fasli 1263, continued unaltered; but Kumri and dry cultivation have always been separately charged, the usual practice being to levy the assessment for these from the actual cultivators and not from the Wargdars.

4. The entry in the Durmati Chitta shows only the totals of the cultivated lands which are scattered here and there throughout a large tract of hill and jungle, but does not include the hills and jungles. Kristna Putturaya, however, lays claim to all the jungles intervening between and surrounding the several plots of land on the ground that they form part of Muli Warg No. 1. In his sale-deed no mention whatever is made of boundaries, though in the language of the deed he is to enjoy, so long as the sun and moon shall last, the jungle and margin lands and grazing grounds, the weeds nechi and tumbe, water, stone-built tanks, sunken wells, treasure trove, &c., lying in the aforesaid estate, and the villagers have given a joint statement to the effect that the Wargdars have always enjoyed the use of the jungles up to the top of a high hill on the north, a stream on the east, the river on the south, and a low hill on the west for the purposes of grazing and agriculture. These boundaries include a tract extending nearly four miles in length and two in breadth.

5. I do not attach much importance, however, to this joint report, because it is made by persons who probably have similar interests at stake, and because it is undoubtedly not strictly true, for the right of the wargdar to the use of these jungles has at any rate been restricted since 1861, when the Forest Department commenced operations here; if not since 1823, the date of Mr. Harris' order and the 100 yards limit. Moreover, all that is contended for in this

report is the right of pasturage and of taking leaves and wood for agricultural purposes, and not the proprietary right now set up by Kristna Putturaya.

6. That an easement only in jungles was formerly enjoyed is, I think, clear from the report made by the Potails and shanbhog in 1823 in replying to Mr. Harris' order. A translation of this report is given in paragraph 13 of the memorandum appended to Mr. Webster's letter to the Board, dated the 21st September 1875, No. 1816; it is to the following effect: "In this Magani there are no Sirkar jungles, but only males (forests) attached to the cultivation in our respective estates. In this Magani we get leaves and wood from males owned by us for the aid of cultivation of estates, and there is no Sirkar jungle land here." Mr. Webster, I am aware, considered that this was tantamount to asserting that the jungles in question were their own private property; but it seems to me that the terms "we get leaves and wood" "for the aid of cultivation" of estates, limit and define the right therein claimed as an easement; and that they did not then at all, and do not now, even, as a general rule, claim anything more than an easement. The distinction, I submit, is a very important one.

7. The Government having resolved to accept the statement made by Sir T. Munro that "the only land in Kanara that can in any way come under the description of Sirkar land is unclaimed waste," it is, I think, of primary importance to determine what Sir T. Munro intended by the term "land." Now, if this statement is read in conjunction with the instructions given to his Assistant, dated the 9th December 1800, and quoted in paragraph 62 of Sir William Robinson's Minute, it would seem that Sir T. Munro did not include such jungle lands as are the subject of the present reference. For, whilst insisting throughout upon the right of private property in Kanara, Sir T. Munro directs that extra rent is to be charged upon such waste land as may have been brought into cultivation. Had Sir T. Munro intended that the right of private property of the Wargdar extended to the jungle lands adjoining and surrounding the Warg, he would not, I think, have directed the levy of rent upon any additional portion brought under cultivation. The whole passage as given in the paragraph above quoted is "as so great a part of the land in Kanara is private property, held at a fixed rent, your settlement in future will require little labor, because nothing is to be done except to add to the Jumma of the preceding year, the extra rent of a few estates which may be held at an under rate and the rent of such waste land as may have been brought under cultivation," and "It may be observed that an increased occupation of waste land upon estates is unquestionably taking place in a smaller degree throughout the district. But this increase has principally gone on during the early possession of the country, for very little extra cultivation appears now in our annual settlements."

8. It is a noteworthy fact that Kristna Putturaya never made any complaint regarding the occupation of these jungles by the Forest Department, and that in 1866, when Subbamma, the original Wargdar, gave a statement before the Tahsildar, she particularly complained that the 100 yards limit did not give her sufficient leaves and firewood owing to the wood within this limit being chiefly bamboo, which is not serviceable for these purposes. I believe the 100 yards limit, however, gives an average of at least 6 acres to each acre of cultivated land, and that where the cultivated land as is often the case in this district, consists of narrow patches, the preponderance of Kumaki is much greater.

9. The boundaries now pointed out by Kristna Putturaya include much more than the immediate nettikattu (water-shed) of the cultivated lands, for I presume that the summit of the nearest hill must be taken as the nettikattu of each cultivated plot, and not the higher hill range beyond, but even this restricted nettikattu includes nearly all the teak hitherto conserved.

10. I have to request, therefore, that Government will be pleased to declare whether Kristna Putturaya is to be allowed the whole extent claimed by him, or the extent which strictly speaking is comprised within the water-shed of the cultivated portions, or, in short, what extent in addition to his cultivated land.

11. Mr. Cherry, the Deputy Conservator of Forests, tells me that the total expenditure by the Forest Department up to date will amount to about Rs. 15,000, and I request also to be informed what is to be done regarding this sum should Government decide upon giving up the entire jungle, or even so much as embraces these plantations to Putturaya. This individual, when directly questioned on the subject by me, seemed unwilling to come to any terms about letting these jungles on lease to Government.

12. Moreover, Kristna Putturaya distinctly asserts that Government have no concern whatever, and have no right to levy additional assessment upon these lands under whatever pretext, and I would wish to be distinctly informed what are the views of Government upon this point. The question has arisen, and must be decided before the survey and settlement of the district are carried out. The present applications are, I conceive, made under the impression that Government have abandoned all idea of making any alteration in the present assessment, and few claims for these jungle lands would be put forward if it were generally known that they were to be assessed at so much per acre, ascertained upon survey. In this is involved also the question whether, as hitherto has been the practice, Hossagame, Kumri and dry cultivation are to be charged in such Wargs.

13. The papers relating to this Warg, including the statement given before me by Kristna Putturaya, translations of the sale-deed and of a decree obtained by him, of Subbamma's

statement before the tahsildar and the orders passed thereon, and of the village report as well as a plan, are forwarded for reference.

14. In conclusion, I fear that I may be laying myself open to the charge of re-raising a question that has been finally determined, but I feel bound, holding the views that I do, and, seeing the magnitude of the interests to Government involved in the question, to bring the matter once more before Government.

35. The orders of the Madras Government upon this representation were as follows :—

No. 892, dated the 3rd July 1876.

Orders by the Government of Madras.

The Government decline to re-open the matter treated in the Collector's letter, and direct him to proceed with his settlement. As regards the assessment of extended cultivation, there can be no doubt of the right to add the assessment of all extensions to the " fixed rent " of the early settlement due on the estate. Unless special circumstances exist, the Government would not press against individuals, singled out, a measure which cannot be generally adopted until the survey is undertaken.

2. The lease of the forests should, by all means, be negotiated, especially of that portion in which the Forest Department planted teak, and the Government entertain hopes that Mr. Webster will be able to effect this measure.

It is evident from the tenor of these orders that the Madras Government regarded the area claimed by Kristna Putturaya as his private property. This decision, however, is based upon a foregone conclusion, and not upon the results of any complete and searching enquiry.

36. In January 1876, Colonel Beddome, the Conservator, addressed the Madras Government regarding the probable results of the enquiry. The Proceedings in which Colonel Beddome's report was recorded were received by the Government of India in June 1876, and the following communication was addressed to the Madras Government in relation to it :—

No. 684, dated the 31st July 1876.

From—The Secretary to the Government of India, Department of Revenue, Agriculture and Commerce,

To—The Secretary to the Government of Madras.

* * * * * * * *

3. In paragraph 13 of his letter, dated the 31st January 1876 (entry No. 246), the Conservator, in speaking of the enquiry which is being instituted into the rights of Government in forest lands in South Kanara, states it as his opinion that " the result of the enquiry and settlement, if carried out as it has been commenced, will leave Government without an acre of forest in South Kanara, either in the plains or line of ghâts." He also quotes a remark by Mr. Cherry, the Deputy Conservator of Forests in that district, to the effect that " upwards of 740* square miles of well situated ghât and lowland forest, containing a wealth of bamboos, poonpars, and other good timbers, besides two cardamom tracts, are claimed by a single family on the ground of long enjoyment and previous payment of Rs. 12-8 per annum for the privilege of cutting Kumri."

4. The Governor General in Council is aware, from the papers recorded in former Proceedings of the Madras Government, that the forest rights of the State in South Kanara have for some time past been the subject of prolonged deliberations by the Board of Revenue and the Madras Government. His Excellency in Council has no means of judging whether the Conservator's opinion is based upon a complete knowledge of the facts of the case, and whether Mr. Cherry's statement, as quoted by Colonel Beddome, is correct. But so much is evident from the letter recorded in the Proceedings of the Madras Government that the Conservator seriously apprehends that those forests in South Kanara, which have hitherto been regarded as Government forests, will now be claimed as private property and will be given up to the claimants.

5. The expression in an official document of such an opinion by the responsible Head of the Forest Department seems to call for explanation, and can obviously not be ignored by the Government of India. Accordingly, I am directed to request that, with the permission of His Grace the Governor in Council, the Government of India may be favoured with a report explaining fully the present state of the question. It should be stated in the report whether the opinion expressed by the Conservator is warranted by the facts of the case, and it should be explained what progress has been made with the enquiry instituted into the Government forest rights in South Kanara.

6. It is inferred from the orders of the Madras Government on this subject that one object of this enquiry was to determine in an authoritative manner what blocks of forest may be regarded as State property, and that it was intended to demarcate such blocks as Government

* This should be 40, not 740 square miles.

forests. Should any forests have already been demarcated in this manner, the report now asked for should state their position, their area, and the character of the forest vegetation.

37. The Proceedings containing Mr. Webster's report of September 1875 noticed above, with the orders thereon by the Board of Revenue and the Madras Government, were received in September 1876; and on receipt, the Government of India telegraphed to stay all further proceedings in regard to surrounding forests in Kanara, and in a letter of 14th October, drew the attention of the Madras Government to the grave consequences of their proceedings. This letter was as follows :—

No. 1105, dated the 14th October 1876.

From—The Secy. to the Govt. of India, Dept. of Reve., Agri. and Commerce,

To—The Secretary to the Government of Madras.

The attention of the Governor General in Council having been drawn to the papers recorded as No. 42 in the Proceedings of the Government of Madras in the Revenue Department (Forests) for April 1876, I am directed to state, in continuation of the letter from this Department No. 684, dated the 31st July last, that the Government of India view with grave concern the intention of the Government of Madras to abandon the rights of Government in the forests of South Kanara.

2. The rights of Government in the forests of North Kanara, which are under the Government of Bombay, have been contested in a similar manner, and a suit has been instituted which, though decided in the favour of Government, has been appealed against, and is to be argued before the High Court of Bombay. The issues at stake are of the utmost importance, as an adverse decision will involve the relinquishment of a very considerable extent of forest land. But if the Government of Madras carry out the policy that has been laid down in regard to the forests of South Kanara, it will be impossible for Government to maintain its rights in the forests of North Kanara, which are claimed on precisely the same grounds.

3. The Governor General in Council is sure that His Grace the Governor in Council will, in view of these important considerations, admit the necessity of suspending the proceedings of the Government of Madras on this subject, and will be glad if His Grace will, until receipt of the final orders of the Government of India, issue the necessary instructions for preventing any further action which may prove embarrassing to Government hereafter.

4. The Governor General in Council will await with anxiety the report called for in the letter from this Department No. 684, of the 31st July last, and has desired me to request the favour of its early transmission.

38. Subsequently, in reply to an enquiry, as to whether the Government of India meant to prohibit the continuance of the enquiry which was in progress, the Madras Government was informed that the Government of India did not wish to stop enquiry, only to postpone decision until the whole case was laid before them. The course taken by the Government of India was reported to the Secretary of State and approved by him in the following despatch of the 14th December 1876 :—

No. 20, dated the 14th December 1876.

From—The Secretary of State for India,

To—The Government of India.

I have received and considered in Council Your Excellency's despatch, dated October 19th (No. 34) 1876, reporting your proceedings with reference to the forest rights which are disputed both in the Bombay and Madras Presidencies by private claimants.

2. I approve the action taken by Your Excellency's Government with reference to questions still under consideration in the Madras Presidency. Until the decision of the High Court of Bombay has been made known in the appeal case now before it, it is desirable that no irrevocable step should be taken by the Madras Government as regards any of its forest rights.

39. In March and June 1877, the Madras Government reported the action taken by them in this case. The letter of 21st March was as follows :—

No. 1174, dated the 21st March 1877.

From—The Secretary to the Government of Madras,

To—The Secy. to the Govt. of India, Dept. of Revenue, Agriculture, and Commerce.

In continuation of the letter of this Government, dated the 10th November 1876, No. 1620, I am directed to forward a copy of the Proceedings of the Board printed in the Proceedings noted marginally, and to observe that Colonel Beddome's statements are exaggerated and unfounded. With reference to the Government of India letter of the 14th October 1876, I am further to state that this Government has no

Progs. of Govt., 21st March 1877, No. 1173.

intention of abandoning State rights in the forests of South Kanara. The action taken has been to ascertain and assert State rights, as distinguished from wrongs which this Government had good reason to fear had been committed in regard to some of the forest tracts in this district. In the opinion of this Government, State rights are being weakened by the delay which has occurred by the interposition of the Government of India in the decision of claims or rights, whilst the rights of proprietors cannot be affected by this Government postponing its decision. Further, the result of this inquiry so far goes to show that there is no reason to apprehend the serious loss to the State, which seems to be anticipated by the Government of India.

2. Under these circumstances, this Government request permission to proceed with the inquiry, and dispose of the claims, which have been put forward, in the manner originally contemplated.

3. In conclusion, with reference to the letter of the Government of India, of the 31st July 1876, I am to call attention to paragraph 5 of Mr. Webster's letter, dated the 8th November, now submitted, which appears to furnish the information required generally, and to state that more detailed information can only be supplied when the inquiry is compelete, the probable term of which the Government are not as yet able to state.

This letter gave cover to a Report of 8th November 1876 by Mr. Webster, the Collector of South Kanara, which refuted the statements made by Colonel Beddome in January 1876 in the the following remarks :—

No. 2086, dated the 8th November 1876.

From—A. McC. Webster, Esq., Collector of South Kanara,

To—The Secretary to the Board of Revenue, Madras.

* * * * * * * *

3. Colonel Beddome writing apparently on information demi-officially received from the Deputy Conservator, and therefore not passing through my office, states that by my interpretation of the Government orders, *every acre of forest land in the district will be given up.* He also mentions an instance in which 740 square miles of valuable forest are claimed by a Wargdar on the strength of the payment of Kumri shist.

4. Now as this is the area of a good sized taluk, it was clear to me that a mistake had been made, and on my referring to the Deputy Conservator, Mr. Cherry, I have ascertained that information of this claim was given by him in a private letter to Captain Campbell Walker, and that only 40 square miles, and not 740, were stated to have been claimed. Colonel Beddome's estimate of the extent is evidently, therefore, an error, though from his not noticing it it is clear that he has exaggerated ideas of what it is possible for a Kanara Wargdar to claim.

5. With reference to his statement that not an acre of Government forest will remain if the inquiry is continued as it has been commenced, I beg to call attention to paragraphs 3 and 4 of my letter to the Board of 21st September 1875, No. 1816, (published in Board's Proceedings of 11th February 1876, No. 413, and G. O. of 5th April 1876, No. 479), in which I brought to notice that the only *claimed* jungles which would probably be adjudged to belong to Government were those entered in the lists submitted to Mr. Harris, those attached to Sirkar Gueny-Estates, and some few to which clearly unfounded claims would be made. In addition to these jungles there will be jungles to which no claims will be made. These are numerous at present, but I have found that the Wargdars in many cases do not prefer their claims in accordance with the notice, but delay to come forward until the careful detailed local inquiry is made. The number of jungles to which no claims will eventually be preferred, and which will on that account be declared to be Government property, cannot therefore be given.

7. My subsequent inquiries have resulted in the claims of Government to many other jungles being acknowledged. In one case nearly the whole of the Cubbinhollay valley, a compact block of good forest of an approximate area of 36 square miles, has been declared to be the property of Government.

8. Reference has been made to the lists submitted to Mr. Harris in 1823, and in paragraph 29 of my memorandum submitted to the Board with my letter of 21st September 1875, (Board's Proceedings, 11th February 1876, No. 413), I gave a statement of the number and approximate extent of Government jungles included therein. They measure over 560 square miles. I should, however, be inclined, from the comparison of Mr. Harris' measurements with my own observations of the distances between the boundaries given in the lists, to consider the extent over-estimated, and would put down the jungles at not more than 250 square miles *measured on the map.* The jungles entered in the list are easily identifiable, as the boundaries are in most cases given in the lists submitted to Mr. Harris.

9. With reference to the particular instance mentioned by Colonel Beddome, the claim has not yet come up for settlement, and I am unable therefore to state what it is based upon. It is preferred by the Tingala Hegade, and is to the valley called the Tingala valley near Someshwar. The family is a very old one, and the most influential in that part of the country, so it is very probable that the claim is well founded even without the evidence of a payment of kumari shist.

10. I trust I have shown that Colonel Beddome's gloomy anticipations are not warranted by the actual result of my inquiry as far as it has proceeded, and that there is a probability of a considerable extent of forest land being declared to be the property of Government. Not, however, that this affects the real question one whit, for, if the jungles are private property, the State has no right to them, and the claims of the people must be acknowledged. Colonel Beddome's letter, however, would lead to the conclusion that a reckless relinquishment of admittedly Government forests is taking place, and as it is well known that there are State forests in Kanara, I have considered it necessary to correct the impression that might be made by his letter.

40. The letter of the Madras Government also included a minute by the Honourable Sir W. Robinson, K. C. S. I., dated the 3rd November 1876.

This minute gives an account of the revenue administration of Kanara from the commencement of British rule in 1800 to about 1843. For the subsequent period to 1870 the reader is referred to the previous minute (paragraph 138 to the end). That minute also gives a history of the administration from 1800, and to facilitate reference, it will be convenient here to quote the corresponding paragraphs of both documents.

After a brief introduction (paragraphs 1—3) a résumé is given of Major (afterwards Sir Thomas) Munro's report on Kanara of May 1800 (paragraphs 4-12 and 2-25 of the minute of 1870).

The reports submitted by Mr. Ravenshaw and other successors of Major Munro are discussed in paragraphs 13-15 (26 to 38 of the previous minute).

Mr. Thackeray's deputation to Kanara in 1807 forms the subject of paragraphs 16-18 (40-52 of the previous minute).

The orders of the Court of Directors and the report by the Committee of the House of Commons of 1812 are noticed in paragraphs 19-21 (56-57 of the previous minute).

A general review of the revenue administration of the district from 1800 to 1820 is given in paragraphs 22-28, and the attempts to work the (supposed) Government forests, and to enforce a royalty over teak and poon by a Conservator of Forests appointed by the Bombay Government from 1806 to 1822 are detailed in paragraphs 29-35 (paragraphs 39 to 87 of the previous minute).

The concluding paragraphs of the minute relate to the time from 1823 to 1843. The remainder of the history of revenue and forest administration is given in the previous minute (paragraphs 138 to 175).

Sir William Robinson lays great stress on Major Munro's statement *that in Kanara almost all land is private property*. But it has been justly urged by others competent to judge, that Major Munro, when speaking of "lands," did not include the great forests of the hills and ghâts, but only the cultivated lands, and the forest and scrub immediately adjoining them. In the minute written by him in November 1822 when Governor of the Presidency, already adverted to, Sir Thomas Munro distinctly recognizes the existence of public forests. The real state of things was fully explained in paragraphs 6 to 9 of the Proceedings of the Board of Revenue, dated March 1871 (page 147 of Proceedings, October 1874), and the views then expressed by the Board of Revenue are doubtless correct.

It was also very properly urged by Mr. Horsfall in the letter already quoted, that "whilst insisting throughout upon the right of private property in Kanara, Sir T. (then Major) Munro directs that extra rent is to be charged upon such waste land as may have been brought into cultivation." This he would not have done had he regarded all waste land, including forests, as private property.

This view of the case is further borne out by several passages in Buchanan's journey into Mysore, Kanara and Malabar. Writing in 1801, he said of the Bekul taluka* (that adjoining Malabar, now called Kassergode): "In this neighbourhood the hills that are cultivated after the Kumri manner are all private property." This is quite correct, and it is acknowledged on all hands that in respect of proprietary rights in the forests, this part of the district stood on the same footing as Malabar.

* Quoted in Madras Proceedings, October 1874, page 149.

But of the Haiga country (comprising the greater part of South Kanara), he wrote:* "the hills and forests belong to Government," and the same he says of Honawar, the southernmost taluka of North Kanara.

Buchanan made no official enquiries; but there is no ground for doubting his statement, which explains, but does not contradict, Major Munro's report of May 1800.

The same view was expressed in the orders of the Madras Government, restricting Kumri, of May 1860, of which extracts have been given above.

In support of his view, Sir William Robinson quotes (paragraphs 22-25 of the first, and paragraph 14 of the second minute) the results of the enquiries made regarding the sandal-wood growing on private and on Government lands. Those enquiries were made in 1802, 1803 and 1805, and the result was that by far the larger number of trees were returned from private estates. The conclusion is stated in the following words: "These facts..... leave no doubt as to the preponderating extent to *which the forests of Kanara are the property of the people.*"

But Sir William Robinson has overlooked the fact that sandal-wood *never grows in dense forests*, but either on fields in hedge-rows, or in open and low scrub jungle; this argument therefore falls to the ground.

The theory set up by Sir William Robinson is briefly as follows:—

When Kanara became British territory in 1799, nearly the whole country from the ghâts to the coast was private property, the only noteable exception being the country above ghât (Balaghat) in North Kanara. The expression used by him (paragraph 142 of the minute of 1870) is: "For all practical purposes, the same rights exist, and have been enjoyed from time immemorial in all the countries of the west coast from the Balaghat to Cape Comorin."

The only restriction which in his opinion, Government had a right to impose was the monopoly of sandal-wood grown on private lands, and this was abolished in 1824. The only effective interference beyond this monopoly of sandal-wood commenced with the proclamation of the Madras Government of the 25th April 1807, to the effect that "the Court of Directors have resolved to assume the sovereignty of the forests in the Provinces of Malabar and Kanara, and to place them under the superintendence and control of the Government of Bombay."

This interference ceased at the request of Sir Thomas Munro's Government of Madras in 1823, and the measure was approved by the Court of Directors.

The further interference attempted by the Collectors, and at different times endorsed by the Madras Government, among others by restricting Kumri in 1860, was in Sir William Robinson's opinion all unwarrantable and illegal.

According to him, the Wargdars are now, as they were in 1800, the absolute and unrestricted proprietors of their estates, which comprise nearly the whole of the district.

These are the chief points of the theory so ably defended by Sir William Robinson, and accepted with all its consequences by the present Government of the Madras Presidency. But it may be assumed as certain that the proclamation of 1807 would not have been issued if there had not been good ground to suppose that there were forests, the property of Government in the districts referred to.

Whether it was a mistake to include *Malabar*, in which district Government has no forest land at present save what has been leased and purchased for the Nilambur Teak plantation, or whether Government has since lost any forest rights which it may have possessed in Malabar at that time, that is beside the question here under discussion.

With regard to *Kanara*, it undoubtedly was a mistake that when the proclamation of 1807 was issued, steps were not taken to define and demarcate the Government forests. The consequence was that the Conservator interfered with teak growing on private lands, and this mistake was not, as it ought to

* Quoted in Colonel Anderson's memorandum, dated the 16th September 1876.

have been, corrected by the demarcation of the Government forests, but by the abandonment of all attempts to maintain and conserve them. The argument used by Sir Thomas Munro, then Governor of Madras, in his minute of November 1822, was "*it may be thought that these evils might be obviated, confining the Conservator to the public forests*, but this would prove a very inadequate remedy. Endless interruption would still be given to the sale and transit of private wood, on pretence of its being public."

Sir William Robinson designates this as the "calm and earnest political wisdom of one of the soundest and most farseeing statesmen India has known."

But Sir Thomas Munro acknowledges the existence of public forests, and it would have been more statesmanlike to devise means for protecting and improving these public forests than altogether to abandon the system of protecting the forest resources of the district.

Sir William Robinson, in paragraph 29 of his minute of 1876, calls this appointment of a Conservator by the Bombay Government the *only effective interference* with the timber and wood trade and forest property of the proprietary of Malabar and Kanara which has occurred until perhaps recently."

As regards Malabar, this is correct, and also as regards Kanara in regard to *bonâ fide* private lands. But there is abundant evidence that the great mass of the forests of Kanara were regarded as Government property, until the Madras Government passed its orders of October 1871. Firewood and building wood were only cut on special permission, and Kumri was prohibited.

Sir William Robinson calls this unwarrantable interference; but there is no doubt that it was maintained and acquiesced in by the people for a long series of years.

41. So far the Proceedings as reported by the Madras Government in March 1877.

On the 20th June, the following letter was addressed to the Government of India:—

No. 2056, dated the 20th June 1877.

From—The Government of Madras,

To—The Secretary the Govt. of India, Dept. of Revenue, Agriculture and Commerce.

In forwarding the accompanying Proceedings of this Government, embodying a succinct and lucid account by Mr. Comyn, the Acting Collector, of the progress of the inquiry relative to the rights of Government to the forests of South Kanara in pursuance of their order, dated 20th February 1875, No. 271, I am directed again to express the earnest and anxious desire of this Government that the Government of India should withdraw their restriction placed on this Government by your letter of the 14th October 1876, No. 1105, and telegram of the 27th idem.

2. His Grace in Council fails to see how this course of action can embarrass the Government of India in any way, as it simply relates to the declaration that the several forests concerned are, or are not, the property of the State. When the claimants are dissatisfied they have still the law courts to resort to, and thus occupy the position taken by the North Kanara ryots. The inquiry has for its object the assertion and maintenance of State rights. His Grace in Council trusts that the simple narration of facts in Mr. Comyn's letter will satisfy the Government of India, that the rights of the State are being fully and satisfactorily asserted, and that no good can result from leaving matters in an inchoate and undetermined condition.

42. This letter gave cover to a Report by Mr. W. H. Comyn, Acting Collector of South Kanara, dated the 19th March 1877, with the orders thereon of the Board of Revenue and the Madras Government:—

No. 427, dated the 19th March 1877.

From—W. H. Comyn, Esq., Acting Collector, South Kanara,

To—The Secretary to the Board of Revenue, Madras.

I have the honour, with reference to the Proceedings marginally noted, to submit the report called for relative to the rights of Government in the forests of this district.

Board's Proceedings, Miscellaneous, No. 11341, dated the 22nd December 1876; No. 2267, 24th February 1877; No. 3085, 2nd March 1877.

2. I am called upon to state in what stage the inquiry relating thereto now is, and when the report thereon will probably be complete. In order that the Government may have an

idea of the extent to which their rights in the forests have been apparently established by the facts elicited in the inquiry so far as it has proceeded, I will commence by giving a brief resumé of the steps that have been taken to ascertain the position of the Government and of the people in the matter, and will then proceed to state what still remains to be done to render the inquiry complete.

3. It will be convenient to refer at the outset to the order of Government, No. 1361, dated the 23rd October 1874, by which several misconceptions on the subject were cleared up, and by which the inquiry was directed. In this order the Government observed that there are no sufficient grounds for declining to accept in its literal sense the statement of Sir Thomas Munro that "the only land in Kanara that can in any way come under the description of Sirkar land is unclaimed waste." They therefore considered that "the proposal to call for and register all titles to land would be wrong in principle and hard on the people if followed out to its legitimate conclusion of declining to recognize private property in all cases in which no written title was forthcoming, or the title produced appeared to be defective."

4. Accordingly, the Collector was called upon to propose measures for the purpose of demarcating valuable forests admittedly the property of Government. On receipt of his reply the Government in their order, dated the 20th February 1875, No. 271, expressed their opinion that the best course regarding the demarcation of such forests would be for the forest officer to submit lists of the forests which it would be advisable to demarcate. The list was to be scrutinized, and after the elimination of jungles regarding which no inquiry might be found to be necessary, notifications were to be issued calling for claims to the jungles allowed to remain on the lists. The notifications were to specify each jungle by name, and to state that, unless valid cause to the contrary be shown within three months, the Government would proceed to demarcate and reserve them. Claims brought forward in accordance with the notifications, were to be disposed of by the Collector, taking care to reject none that were not absolutely without foundation.

5. Accordingly, Mr. Cherry, the Deputy Conservator of Forests of the district, was requested to submit the lists prescribed in the above order, accompanied by rough topographical maps. In accordance with these instructions, Mr. Cherry selected forty-five blocks of forests, the selection being for the most part confined to the forests in the vicinity of the ghâts, as it was considered that they alone were worth reserving, and their early demarcation was in consequence desirable. These forests lie along the ghâts from the neighbourhood of Siradi in the Upperangadi Taluk in the south, as far as the boundary between North and South Kanara in the north. Only two of the blocks so selected comprise coast forests, and both are in the Udipi Taluk.

6. Notices were then issued inviting claims in the terms of the Government order. The total number of jungles named and numbered in the Deputy Conservator's lists was 872, but there were many other small jungles, in all 457, coming within the boundaries of the blocks, and known only to the villagers by their local names. Of the total number of jungles, *viz.*, 1,329 included in these blocks, claims to 835 were set up by 448 individuals.

7. These claims were put forward in a variety of shapes. In many cases jungles were claimed by Wargdars (landholders) as attached to their Wargs either for Kumri cultivation or for the yield of their natural produce. In other cases, the claimants merely asked permission to use the jungles as hitherto for the purpose of procuring timber, firewood, pasture, and the like. In cases in which the claimed forests were detached from the ghâts, claims to the watershed of the adjoining hills were preferred.

8. Such being the nature of the claims advanced, they were referred to the Tahsildars and Deputy Tahsildars for preliminary inquiry, and were subsequently investigated in person by the late Collector, Mr. Webster. His inquiry was materially facilitated by the existence of certain very important documents to which I shall now refer.

9. The principal record of the title of Government to the forests is to be found in the returns obtained in Fasli 1233 (A. D. 1823) by Mr. Harris, the then Collector of the district. In calling for the returns of Government forests, Mr. Harris directed the exclusion therefrom of all jungles to which the ryots laid claim, of others which they mentioned as being an aid to them in the cultivation of their lands, and of those that were situated within 100 yards all round the lands of ryots, and ordered that, with these exceptions, all other forests were to be considered as belonging to Government. In obedience to this circular, the Tahsildars submitted the returns to the Huzur.

10. I should here mention that the originals are not forthcoming, the records having been destroyed in the Coorg insurrection of 1837, and consequently the office copies of the taluk returns or the returns from the village officials to the taluk, which, however, were not always complete, were obtained from the taluk records for the purposes of the present inquiry.

11. It appears from these returns that at the inquiries held, in view to their preparation, the head of each village, the Shanbhog (Accountant) and the principal landholders were invariably consulted, and their signatures taken to the returns. After excluding all forests to which the ryots laid claim (together with the 100 yards of Kumaki) as specified above, sixty-seven forests were retained as Government property. These forests lay for the most part along the ghâts; their extent as estimated by sight was about 562 square miles; and their well-defined boundaries are to this day capable of identification.

12. The publicity with which the inquiries ordered by Mr. Harris were conducted, and the wide facilities afforded to the people to assert their claims, leave no room for doubt as to the accuracy of the statements admitting the right of Government to the several tracts of forests entered in the returns. The value of these returns, therefore, as a guide in the present inquiry, is obviously great, and due weight has accordingly been given to them in deciding claims to forests now advanced by the ryots. In fact, if the jungle claimed should turn out to be one entered in Mr. Harris' list, the practice has been to reject the claim for want of better evidence.

13. In cases of jungle not entered in Mr. Harris' return, evidence, oral or documentary, has been received in support of claims thereto. Jungles used by several Wargdars, but without any acknowledged boundaries by which the portions claimed by each could be defined, have been classed as village jungles, reserving the details of their management to a future day. A few more jungles, evidently private property, for which, however, no claims have been preferred, have been declared as Government Reserves *pro tem.* in anticipation of future claims. In cases where the claims preferred were absolutely without foundation, the claims were rejected; some jungles have not been claimed, and are not likely to be claimed at all. In all such cases they have been declared to be Government property.

14. Of the total number of forests referred to in paragraph 6 (*viz.* 1,329), 903 have been disposed of. Of these 750 were claimed and 153 unclaimed. In the results private claims have been admitted to 625 jungles, and 23 were declared as village reserves. In all 648 jungles were excluded from demarcation against 255, which were decided to belong to Government. The latter comprise extensive and valuable ghât forests, so that it will be seen that while private rights have been respected, the result of the inquiry so far is by no means unfavourable to the interests of Government.

15. Intimation of the disposal of cases has been given to unsuccessful claimants as directed in G. O., 20th February 1875, No. 271. Only three individuals have filed suits against the Collector, but the suits have not yet been posted for hearing. Of the cases already decided, effect has only been given to the decision in one case, that of the Pilar Kan jungle, which was declared as a Government reserve, and was handed over to the Deputy Conservator of Forests, no injunction of a competent Court having been produced within the prescribed time. In no other case has effect been given to the decisions arrived at and recorded, the decisions being postponed as directed in the Government telegram of the 14th October 1876. Copies of these decisions have accordingly been refused to applicants.

16. The foregoing relates to the inquiry so far as it has proceeded; now as regards the work remaining to be done, there are still important forests in the north of Kundapur and south of Upperangadi Taluks for which registers and maps have not as yet been submitted by the Deputy Conservator. I have recently ascertained from him that the preparation of the registers for Kundapur is already in hand, and that he is engaged in collecting the necessary materials for the southern blocks of Upperangadi Taluk. Mr. Cherry hopes to have his lists complete and to submit the required information before the commencement of the monsoon, say by the middle of May.

17. On receipt of the registers and maps from him the usual notifications will be issued inviting claims within three months. The notices will have been served and the claims received and partially investgated by the middle of September.

By that time the monsoon will probably be over, and it will again be possible to travel. I shall then start on a tour of inspection and inquiry, and will dispose of such claims as may be preferred to the forests included in these new blocks.

18. With regard to the jungles comprised in the lists already submitted, but regarding which final inquiry has not yet been held, I find that there are several claims now ripe for decision. These I intend to take up at once for settlement. The preliminary inquiry into the other cases is not yet complete, but I shall dispose of as many of them as possible before the monsoon, and the rest after the weather again becomes open. The investigation of future claims, including those to Kumri jungles in Kassergode Taluk which are now undergoing preliminary inquiry, will probably occupy me fully until next Christmas.

19. The inquiry completed, it will be necessary, in view to the preparation of a final and complete report on the whole question, to arrange all the information acquired, to collate the various decisions arrived at, to compile statements and prepare maps showing the extent and position of the forests declared to be the property of Government and of those admitted to belong to the people, so that altogether I do not feel myself justified in holding out hopes of the final report being submitted much before the end of the next official year or about the beginning of April 1878.

20. In the mean time, I shall feel greatly obliged if the Board will favour me with instructions on any points connected with the matter under inquiry, regarding which they or the Government may desire to have particular information. The Board's instructions will enable me to note with care such points during the progress of my inquiry.

21. I have written perhaps more at length than I intended, but this report makes no pretence to completeness. In reporting when the inquiry into the rights of Government to the forests is likely to be complete, I have endeavoured, as far as my imperfect knowledge of the subject will admit, to show the main points to which the inquiry has been directed, and to convey to the Government some idea of the manner in which its interests, no less than those of the people, in this important matter, have been dealt with.

No. 1686, dated the 16th April 1877.

Proceedings of the Board of Revenue, Madras.

Submitted for the orders of Government with reference to G. Os., dated the 15th December 1876, No. 2065, and 3rd February 1877, Nos. 505 and 512.

2. In the foregoing letter the Collector reports what steps have been taken in the inquiry relative to the rights of Government in the forests of South Kanara, and what remains to be done. Following the course prescribed in G. O., dated the 20th February 1875, No. 271, the Deputy Conservator of Forests selected forty-five blocks of forest in the vicinity of the ghâts which he deemed it desirable to demarcate. The number of jungles included in the above blocks was 1,329, to 835 of which claims were preferred by 448 individuals. Preliminary inquiry was made by the Tahsildars and Deputy Tahsildars, and the claims were subsequently investigated by the late Collector himself, who in arriving at a decision was principally guided by the lists of Government forests drawn up in pursuance of Mr. Harris' order in 1823, in which were entered as Government property only such jungles as were not claimed by the ryots nor situated within 100 yards of cultivated land, and required as aids to cultivation. These lists embrace sixty-seven forests with an area of about 562 square miles. As great publicity marked the inquiries ordered to be conducted by Mr. Harris, and the returns are authenticated by the signatures of the headmen and principal landholders, the lists are of undoubted value and generally rule the decision in the absence of other evidence. In the case of jungles not entered in the list, oral and documentary evidence has been admitted in support of the claims preferred. Jungles claimed and used by several proprietors have been classed as village jungles, and others evidently private, but to which claimants have not come forward, have been declared Government reserves '*pro tem*;' unfounded claims have been rejected and unclaimed jungles registered as Government property. The result so far is that 903 out of 1,329 jungles have been dealt with; private claims have been admitted to 625, twenty-three were declared village reserves, and 255 decided to belong to Government. Intimation of the decision was given to claimants, but only three have filed suits. In one case only has possession been given to the forest officers, the decisions being held in abeyance in the other cases as directed by Government.

3. There are still important forests remaining to be dealt with; lists of these are expected to be ready by the middle of May; notices to claimants will at once be issued, so that the inquiry may be commenced as soon as the monsoon is over; some cases which are now ripe for decision will be settled at once; but the final report is not likely to be ready before the end of the official year 1877-78.

4. Mr. Comyn's report is remarkably clear and satisfactory, and places the matter before the Board and Government in a most perspicuous manner. The Board do not see that any further instructions are required; the Collector's proceedings throughout appear to have been conducted in strict accordance with the wishes and instructions of Government, and it only remains for him to prosecute the inquiry into the cases awaiting disposal on the same principles with the least possible delay.

No. 633, dated the 17th April 1877.

From—W. H. Comyn, Esq., Acting Collector of South Kanara,

To—The Secretary to the Board of Revenue, Madras.

With reference to paragraph 15 of my letter to the Board, dated the 19th March 1877, No. 427, I have the honour to report that two out of the three civil suits referred to therein (which were lately transferred from the Buntwal District Munsif's Court to that of the Subordinate Judge at Mangalore) are reported by the Government Pleader to have been dismissed by the Sub-Judge for default of the plaintiffs to produce process fees.

2. I beg here to explain that the opening sentence of the said paragraph 15 of my letter above alluded to has reference only to cases which were decided by the late Collector before the receipt of the Government telegram dated the 14th October 1876, therein referred to, the said cases having been decided in 1875.

No. 2368, dated the 24th May 1877.

Proceedings of the Board of Revenue, Madras.

Submitted, for the information of Government, with reference to Board's Proceedings, dated the 16th April 1877, No. 1686.

No. 2055, dated the 20th June 1877.

Orders by the Government of Madras.

Resolved that these Proceedings be communicated to the Government of India, in continuation of the Proceedings of Government, dated the 21st March 1877, No. 1173.

From Mr. Comyn's report it appears that in obedience to the orders of October 1874, the Deputy Conservator has submitted lists of forests which it would be advisable to demarcate for the northern part of the district; that these lists comprise 1,329 jungles in 45 blocks, mostly situated along the ghâts: that 903 of these forests have been enquired into, and that among these, private claims have been admitted to 625 jungles, while 23

were declared as village (more correctly joint private) forests. There are no village communities in Kanara, and these so-called village forests are in reality forests in which several Wargdars have rights of user. The balance, 255, it is said, were decided to belong to Government. The Collector has not reported the area of the 255 jungles decided to belong to Government, nor of the 648 jungles declared to be private and village jungles.

From Mr. Webster's report of the 21st September 1875, it appeared that the chief use made of the returns of 1823 was to eliminate all forests from the Deputy Conservator's lists which were not entered in those returns if claims to them were preferred.

According to Mr. Comyn, these returns have now been used in a different manner, and apparently with results more favourable to Government. At the close of paragraph 12, he states that if any jungle claimed turned out to be entered in Mr. Harris' list, the practice has been to reject the claim for want of better evidence.

Mr. Comyn enters fully into the character of the returns sent in in 1823. From his statement it would appear that the purport of the orders issued by Mr. Harris on this subject was known, but this does not agree with the paragraphs of Sir William Robinson's minute quoted above. So much, however, is clear that no forests were entered in these returns that were claimed by the ryots (Wargdars). He states that 67 forests were in 1823 retained as Government property, the aggregate extent of which was, as estimated by sight, about 562 miles. In his letter of the 8th November 1876, Mr. Webster states that the jungles entered in the lists of 1823 measure 562 square miles; but he adds that he would put them down at not more than 250 square miles measured on the map.

It can hardly be maintained that those lists prove that all forests not included in them are *primâ facie* to be regarded as private property, yet, as great stress has been laid upon those papers, it is important clearly to understand their value. There seems to be some discrepancy in the information regarding them. The tenor of paragraphs 97 to 101 of Sir William Robinson's minute of 1870, and of paragraph 37 of the minute of 1876, leaves the impression that the terms of Mr. Harris' orders, in obedience to which those returns were submitted, are not certainly known; but, on the other hand, Mr. Comyn writes as if he had seen the orders issued by Mr. Harris. The terms of these orders, and the circumstances under which they were issued, should be carefully examined.

43. The effect which the proceedings taken under the orders of the Madras Government, dated the 23rd October 1874, had upon the extension of Kumri cultivation in South Kanara appears from the following documents, which are recorded in the Proceedings of the Madras Government of February 1877 and July 1877.

The first document is a report by the Collector, Mr. Webster, dated the 5th December 1876, which runs as follows:—

No. 2205, dated the 5th December 1876.

From—A. Mc C. Webster, Esq., Collector of South Kanara,

To—The Secretary to the Board of Revenue, Madras.

I have the honour to bring to the notice of the Board that extensive Kumri clearings are being carried on in the taluks of Kassergode and Upperangadi, and large quantities of sandalwood are reported to have been cut from jungles which, before the passing of the order of Government, dated the 23rd October 1874, would have been understood and treated as Government jungles. In the majority of cases, the trees are felled from jungles within the nettikattu (water-shed) of Wargs, which jungles under the Government order of October 1874 would be given up to the Wargdars.

2. I have the honour, therefore, to request instructions whether the telegram from Government directing the suspension of the operation of the order of 1874 is to be taken as requiring the prosecution of parties for cutting Kumri or felling timber without the 100 yards Kumaki limit. I trust not, and think that if a claim of proprietary right is set up, a prosecution should not be instituted.

This letter was submitted for orders by the Board of Revenue, and the Madras Government passed the following order on the 3rd February 1877: "His Grace the Governor in Council is of opinion that Kumri cultivators should not be interfered with."

44. In consequence of this order, the Acting Collector, Mr. W. H. Comyn, submitted the following letter to the Board of Revenue:—

No. 440, dated the 19th March 1877.

From—W. H. Comyn, Esq., Acting Collector, South Kanara,

To—The Secretary to the Board of Revenue, Madras.

In consequence of the extensive clearing of valuable jungles in the Upperangadi taluk for Kumri cultivation, the late Collector, Mr. Webster, imposed a penal assessment of Rs. 8 an acre on this year's Kumri cultivation in that taluk, and directed the Tahsildar to proceed with the collection.

2. When settling the taluk at the recent jamabandi, I found that the greater part of the assessment at this rate had been collected, and I did not see sufficient reason for interfering with Mr. Webster's order.

3. The Kumri cultivators were also criminally prosecuted with reference to the Notification No. 48, published at page 183 of the District Gazette, dated the 16th March 1875; and as no propritary right was set up to these jungles, Mr. Webster declined to suspend the prosecutions on the execution of sentences passed.

4. After completing the jamabandi, I received the Proceedings of the Board, Miscellaneous No. 2767, dated the 24th February 1877, communicating G. O. dated the 3rd February 1877, No. 512 (Forest No. 16), passed on a reference made by Mr. Webster, and stating that "Kumri cultivators should not be interfered with."

5. Though Mr. Webster's reference upon which this order was passed, related to criminal prosecutions in a certain class of cases, I think that, from the general terms in which the Government order is expressed, the prohibition of interference of *any* kind with Kumri cultivators is intended, particularly as the cultivation of Kumri is one of the unsettled questions connected with the inquiry regarding forest rights, the completion of which is ordered in the following paragraph of the Government order to be expedited.

6. The imposition of a penal assessment, or indeed of any assessment in excess of that usually charged on Warg Kumri cultivation (*viz.*, one rupee per acre), seems to me to be a very decided form of interference. I have accordingly in the settlement of Kassergode Taluk, which I have just completed, charged a uniform rate of assessment of one rupee per acre on all Kumri cultivation, whether "Warg" or "Sirkar."

7. This rate was charged by Mr. Webster in this (Kassergode) taluk in the settlement of Fasli 1284 (A.D. 1875), but last year Mr. Stokes, the settling officer, charged two rupees an acre on "Sirkar" Kumri cultivation, and the same rate was adopted by Mr. Horsfall last year in Upperangadi Taluk. I presume that these rates were charged under the general power given to Collectors to impose prohibitive rates of assessment on unauthorized cultivation.

Vide Proceedings of the Board of Revenue, No. 326, dated the 27th January 1877.

8. Under the spirit of the Government order above quoted, prohibiting interference with Kumri cultivation, I am of opinion that the penal rate of eight rupees per acre imposed in Upperangadi should be reduced to one rupee, and I beg the favour of the Board's instructions in the matter.

9. Pending the receipt of the Board's orders, I have directed the Tahsildar of Upperangadi to suspend the collection of such Kumri assessment as has not been already paid; and should the Board agree with me that the parties from whom the assessment has been collected are entitled to a refund, I will submit a statement showing the amount for which sanction will be requested.

10. I have, with reference to the Government order above quoted, directed Sub-Magistrates to abstain from criminal prosecution in cases of Kumri cultivation.

This the Board submitted for orders with the following remark:—

No. 1705, dated the 17th April 1877.

Proceedings of the Board of Revenue, Madras.

2. Mr. Webster's reference related only to Kumri clearings in jungles which, under the operation of G. O., dated the 23rd October 1874, No. 1361, would be given up to the Wargdars, and the order of Government directing that Kumri cultivators should not be interfered with applies to such cases, but apparently not to Kumri clearings in Sirkar jungles to which no private proprietary rights have been preferred. It does not appear that it was intended to prohibit interference with Kumri by the imposition of penal assessment and prosecution, if necessary, in the latter case.

And the Government of Madras passed orders on the 3rd July 1877.

No. 2199, dated the 3rd July 1877.

Orders by the Government of Madras.

The reference on which the G. O. of the 3rd February 1877 was passed had regard to "Warg Kumri" only, and His Grace the Governor in Council sees no need to extend it to other Kumri. But at the same time he does not desire to restrict the Collector's discretion as to the charge to be made on Sirkar Kumri; and, unless the Collector sees reason to impose the penal assessment as Mr. Webster did in Upperangadi Taluk, he is at liberty to charge only the usual rate as Mr. Webster did in Kassergode Taluk.

2. The Collector will ascertain and report the reasons which induced Mr. Webster to act as he did in Upperangadi. Until these reasons are before Government, His Grace in Council cannot sanction the reversal of Mr. Webster's orders in that case.

It is clear from these documents that since the orders of October 1877 were passed, extensive Kumri clearings have been made, and sandal-wood has been cut in forests, which, before the passing of those orders, would have been regarded and treated as Government forests.

45. As a matter of fact, the forests in question had for many years past been regarded as the property of Government. The orders of October 1874 directed that an enquiry should be made; and when an enquiry of this kind is made, the proper course obviously is to maintain the *status quo* pending such enquiry. In the present case, a different course has been pursued: local officers were informed that all forests situated within the water-shed of the Wargs should be regarded as the property of the Wargdars, and, as a matter of fact, they have been thrown open to Kumri cultivation. And not only this, in the Government forests also, to which no claims have yet been preferred, Kumri cultivation has been permitted, or at least not been effectually prevented.

The proceeding is termed an enquiry by the Madras Government, but the effect of this proceeding has been to abandon to a great extent the rights of Government in these forests.

46. In January 1878, Colonel Beddome, the Conservator, reported that "South Kanara is at present in an unsettled state, as far as attempts towards conservancy are concerned, and it is not known what area of forests we shall eventually have charge of." He, therefore, proposed, on Mr. Cherry going on furlough, not to send a Deputy Conservator to South Kanara, but to place a Sub-Assistant Conservator in charge of the forests.

The orders passed by the Madras Government upon this representation were, that it was not thought necessary to send any forest officer to South Kanara in the present state of forest matters there.

This is the latest information that has come before the Government of India regarding the state of forest matters in South Kanara, and it must now be decided whether these proceedings shall be permitted to continue.

47. The enquiry now being held under the orders of the Madras Government will affect the proprietary rights of Government in an area which probably is not less than 1,000 square miles. An enquiry of such magnitude should not be held without the aid of detailed maps. The Surveyor-General, who was asked on the subject of maps of the district, reports, that no larger scale map than the Indian Atlas sheet on the scale of 4 miles=1 inch exists in his office, and that no larger scale maps appear to have been published by the Superintendent, Madras Revenue Surveys. The question of a detailed survey of the district appears on several occasions to have been considered; but it is evident from the reports of the local officers that no accurate maps have been made, and none are available.

Without a detailed survey it will be difficult to settle the boundaries in a satisfactory manner; and without detailed maps, showing the boundary lines, it will be difficult in a hilly and forest-clad country, like South Kanara, to guard against encroachments.

48. But a survey is not sufficient; the question of the rights of Government in the forests of Kanara must be investigated in a much more thorough and searching manner than has at present been attempted. From the commencement, the chief responsible forest officer in the Presidency, the Conservator of Forests, has been excluded from the enquiry. The lists of presumed Government forests, which form the basis of the enquiry, have been ordered to be drawn

up by the local forest officer, without apparently any control on the part of the Conservator. None at least is provided in the orders of the Madras Government, and in the Collector's reports the Conservator is altogether ignored. Hence Colonel Beddome, without any authentic information at his command, based the remarks, which he deemed it his duty to submit, upon such information as he could obtain privately, and thus fell into mistakes. This should be remedied, and the Conservator should have an opportunity of reviewing the proposals made by his subordinate.

49. The enquiry must not be conducted by the Collector alone. It will be necessary to entrust it to a Special Commission, partly composed of officers who are independent of the Local Government. The orders of the Madras Government, which govern the present enquiry, are based upon a one-sided interpretation of certain reports written 78 years ago after the occupation of the district. It will be the duty of the Commission which it is now proposed to appoint, to make a complete and searching examination of the entire history of the British administration of the district, with regard to the exercise by Government and the people of rights in these forests.

50. The facts recorded in the documents relating to this case appear to show that until the orders of the Madras Government of October 1874 became known to them, the Wargdars exercised no proprietary rights in the forests, but only certain rights of user, and in many cases they only claimed such rights when the enquiry was instituted.

It will probably be found to have been a gratuitous assumption, that these Wargdars are the proprietors of the forests; on the contrary, the presumption is that their rights are limited to the user of the forests for certain defined purposes. The Collector, Mr. Webster, distinctly states that the people, in now claiming jungles, only ask for permission to use the jungles as hitherto, *i. e.*, for leaves, trees, firewood, &c., for themselves, and also to be allowed to cut Kumri therein, and then proceeds: "This would seem to show that they formerly had only an easement and are only entitled to that now." But he satisfies himself by adding that there was formerly no market for the timber, and that the only use they could possibly make of their private jungles was for leaves, firewood, and trees for their house-building and for the cultivation of Kumri. In the Collector's opinion the great moderation in the wording of their petitions shows that they are claiming no new rights, though their claims involve at the present day, when communications have improved, the power to dispose of the produce of their jungles.

If arguments of this nature were sound, there would be few forests in India which Government could claim as State forests, and most of the forests of the State in France and Germany, in Austria and other European countries, would be regarded as private property. In England, if such arguments were to be the guide, the Commoners and not the Lord of the Manor, would be the proprietors of the commons on which they dig turf, pasture their cattle, and collect wood, grass and fruits.

The rights of the Wargdars in South Kanara to the forests which surround their estates, will probably be found to be rights to use certain produce of Government forests for the purpose of house-building and husbandry. They are rights *in re aliená*, which they have exercised in the Government forests by reason of their being the owners or occupants of certain estates situated in the vicinity of the forests.

In India, as in Europe, these rights have grown up with the development of private property in fields, gardens and other cultivated lands. Undoubtedly, where the ruling power has not asserted its rights over the forest and waste, such rights of user might gradually develop into complete ownership of those lands, and this probably will be found to have been the case in the adjoining province of Malabar.

But from the information before the Government of India, it appears that even before Kanara became British territory, the ruling power had asserted its right, and that the British Government has asserted it more or less persistently since the beginning of the century.

It has been maintained that rights of user (*droits d'usage*) partake to some extent of the nature of proprietary rights, and that the right-holders are in the position of co-proprietors with Government. The study of this subject in the forests of the Continent of Europe has led to a different result, and rights of user in forests are regarded universally as specifically distinct from proprietary rights in the soil.

But even if the view were accepted, that the Wargdars have a co-proprietary right in the forests surrounding their estates, they would only be entitled to a *portion* of these forest lands, and not to the *whole*.

The Madras Government orders, however, and the inquiry instituted under these orders, will evidently have the effect of acknowledging these Wargdars as proprietors of the whole of the forests in which they have hitherto exercised, and in which, apparently, they only claim certain rights of user for specific purposes.

The Collector himself says that the forests thus claimed have got a fair start, and have improved since the indiscriminate cultivation of Kumri was stopped, and that it seems a pity that they should now be destroyed.

The Board of Revenue, which, when the enquiry commenced a few years ago, made an attempt to defend the rights (and duties towards the public) of Government in this matter, has now entirely come round to the views taken by Government, and expresses a hope that when the Wargdars are placed in absolute possession of their jungles, *they may in their own interest put some check on Kumri clearings*. This is contrary to all experience in India. The zemindars and malguzars of the Satpura and other hills in the Central Provinces have under the settlement been put in complete possession of their forest lands, and the forest in their holdings is cleared and burnt for bhewa and dhya cultivation as before. The Karens on the hills east of Toungoo are virtually in complete possession of the land, including the forest on their hills, and they are clearing and burning all the same.

This expectation of the Board will prove illusive.

The Government, in their order of the 5th April 1876, approve of the proceedings and proposed proceedings of the Collector, and hope that the decisions passed will exercise *an excellent influence on the feelings of the people*. Unless the Wargdars of Kanara are different from the natives of other parts of India, the effect will be this, that they will use every opportunity to take advantage of what they will regard as weakness on the part of Government.

51. The interests at stake are very important, and the question requires immediate action. The special Commission, which must now be appointed, should report their proceedings periodically both to the Government of India and the Government of Madras; but orders on the final report of the Commission should be passed by the Government of India.

The settlement of the forest rights of Government in South Kanara will be the first task of the Special Commission; but unless, in the meantime, the Madras Government should take measures to effect a speedy demarcation of the public forests in the Madras Presidency, it will be necessary to extend its functions, and to entrust the Commission with the enquiry into the state of the forests in other districts also.

52. South Kanara is entirely situated below the ghâts, and the protection of its forests, though important for the supply of timber, is not so necessary for the general welfare of the agricultural population in South India as is the protection of the forest growth on the east side of the ghâts and in the dry inland districts of the peninsula.

In these districts the demarcation, protection and improvement of the public forests is a measure of pressing necessity, which must no longer be deferred. The misery of the late famine has been greatly increased by the denudation of the country, which has diminished the production of cattle fodder, and has had an injurious effect upon the water-supply in streams and tanks.

GENERAL PROPOSALS.

53. With a communication, which the Madras Government submitted to the Government of India in April 1877, a statement was sent, showing the present area of Government forests, fuel reserves and plantations, in the different districts of the Madras Presidency, with the receipts and charges on account of the same. A copy of this statement is appended to the present Memorandum.

It will be noticed that the area of forest plantations aggregates 15,985 acres, the receipts and charges on account of which have been—

	Rs.
Receipts	1,38,822
Charges	4,74,303
Net outlay Rs. ...	3,35,481

Under "charges" is included an item of Rs. 80,000 for the purchase of land at Nilambur. The most extensive plantations are those in South Arcot, which aggregate 3,550 acres, and the famous Nilambur teak plantations commenced in 1844, which cover 3,490 acres.

54. The estimated area of the fuel reserves aggregates 134,315 acres, of which 16,830 acres are in Cuddapah, 65,140 acres in South Arcot, 12,160 in Coimbatore, and 19,369 in Salem. These reserves are chiefly in the vicinity of the lines of railway, and the receipts and charges on their account from the commencement have been—

	Rs.
Receipts	9,606
Charges	1,46,931
Net outlay Rs. ...	1,37,325

Under "charges" are included Rs. 45,000 on account of the purchase of land.

A good commencement has thus been made in establishing these plantations and in demarcating these fuel reserves, but it is only a commencement on a very small scale, which is entirely inadequate to meet the requirements of the country. In the Cuddapah district, where the fuel reserves are of comparatively large extent, one reserve is estimated to contain 3,500 acres; there are three of 3,000, one of 2,000, one of 1,730, and one of 600 acres. In other districts, the areas are even smaller. The protection of areas of such limited extent is difficult and costly. As already explained, in this district there was no ground for not demarcating larger areas. In four talukas alone it is said, that the forests which are the property of Government, aggregate 1,150 square miles, while the extent of those in the other talukas is not known.

But it is not the small size only of the protected areas which is against them; it is evident from the reports recorded in the Madras Proceedings, that the protection of these reserves has been incomplete and ineffectual, and that their improvement under the existing system is hopeless.

55. The total area of the Government forests in the different districts is given by the Madras Government as 9,905 square miles, but this only includes the forests in 12 out of 21 districts, and in some districts, such as Cuddapah, the area stated in the return is much less than what is known from other information. On the other hand, it should be borne in mind, that rough estimates, like the present, generally give too high figures; which are reduced considerably when demarcation and survey take place. So much, however, is clear that a large area of forest is acknowledged by the Madras Government to be at the disposal of the State.

Nor is there any ground to suppose that the Madras Government are opposed on principle to the demarcation of the public forests; for in paragraph 4 of the letter of 25th April 1877, already quoted, they say that "the experience which has been gained during the last few years seems to show that expenditure in formation and improvement of Government forests is on the whole to be desiderated, rather than increased expenditure in the formation of fuel plantations and reserves."

But expressionss uch as that which occur in the orders of the 13th June 1877, on the Cuddapah Forests, that "the general conservancy of the forest area under the operation of a liberal enactment would be more expedient and economical, whether in the interests of the State or of the people, than the formation of close reserves for fuel"—seem to show that the present Madras Government do not contemplate the adoption of those measures which are necessary to secure a satisfactory result that shall be beneficial alike to the State and to the people.

56. No comprehensive statement is before the Government of India, stating the policy of the Madras Government with regard to the demarcation of the public forests in the Presidency. A local Forest Bill has, for some time past, been under consideration; but neither the draft, nor the outlines of this Bill, have yet been communicated to the Government of India.

On this subject, the following letter was addressed to the Government of Madras in October 1877:—

No. 1381F, dated the 15th October 1877.

From—The Secretary to the Government of India, Department of Revenue, Agriculture and Commerce,

To—The Secretary to the Government of Madras.

I AM directed to acknowledge the receipt of your letter No. 2503, dated the 15th August last, stating that the Government of Madras is unable to furnish the Government of India with a copy of any approved draft of the Forest Bill proposed to be introduced into that Presidency, as His Grace the Governor in Council has been precluded from settling the scheme of the Bill by the non-receipt of sanction from the Government of India for dealing with the subject in the Madras Legislative Council.

2. In reply, I am directed to explain that the previous sanction of the Governor General under section 43 of the Indian Councils' Act, 1861, will probably not be required; but if the Bill contains penal clauses, it should be submitted to the Government of India before its introduction, under the rules prescribed by the Secretary of State. His Excellency in Council will therefore be glad if the Government of Madras will proceed with its preparation, and furnish the Government of India with a copy of the draft when it is finally settled.

3. I am at the same time to observe that forest legislation in the Madras Presidency is a matter of great importance, and is one in which, as evidenced by the case of the forests of South Kanara, the Government of India may entertain views different from those held by the Government of Madras. Under these circumstances, His Grace the Governor in Council will readily understand that before the Bill is introduced into the Madras Legislative Council, every effort should be made to effect a complete understanding on the subject between the Government of India and the Government of the Madras Presidency, and His Excellency in Council will therefore esteem it a favour if His Grace the Governor in Council will be so good as to communicate to the Government of India at an early date the outlines of the measure proposed to be introduced into the Legislative Council of Madras.

A reminder was sent on the 5th June 1878, but no reply has yet been received.

57. The general views of the Madras Government on this subject can, however, to some extent, be gathered from several communications submitted to the Government of India with regard to Forest Legislation generally. One communication is dated the 23rd December 1876, and it gives cover to a number of reports from the Board of Revenue, Collectors, and other Local Officers. The Government draw particular attention to certain proceedings of the Board of Revenue, in which the position of the rural population, as regards the forests of the Madras Presidency, is discussed in a manner in accordance with the views of Government. The following passage of the Proceedings of the Board of Revenue, dated the 5th August 1871, gives a summary of those views:—

No. 3284, dated the 5th August 1871.

Proceedings of the Board of Revenue, Madras.

4. There is scarcely a forest, in the whole of the Presidency of Madras which is not within the limits of some village, and there is not one in which, so far as the Board can ascertain, the State asserted any rights of property, unless royalties in teak, sandal-wood, cardamoms, and the like, can be considered as such, until very recently. All of them, without exception, are subject to tribal or communal rights which have existed from time immemorial, and which are as difficult to define and value as they are *necessary* to the rural population. It cannot be said that they are limited by village boundaries, or circuits of five miles, or any other limit of

distance; for there are jungles, like those of the Palnad, into which whole districts send their cattle to pasture during the dry weather, and everywhere as the drought continues, and the jungles on the lower ranges of the hills become barer, the cattle ascend towards the higher ranges, till the rains fall, and they can find pasturage on the plains again. Nor can it be said that these rights are susceptible of compensation, for in innumerable cases the right to fuel, manure and pasturage, will be as much a necessity of life to unborn generations as it is to the present. These forest rights are, Mr. Brandis states, "the result of long-established custom under the old system when the forests were, to a certain extent, regarded as the common property of everybody, and when the people in the vicinity of a forest were in the habit, under varying restrictions and taxes imposed by the former rulers, of resorting to it for wood, timber, grass, and pasture for their cattle and for a variety of other forest-produce." This description divested of its qualifying causes, is applicable to the circumstances of this Presidency. Here the forests are, and always have been, common property; no restriction except that of taxes, like the Moturpha and Pulari, was ever imposed on the people till the Forest Department was created, and such taxes no more indicate that the forests belong to the State than the collection of assessment shows that the private holdings in Malabar, Canara, and the ryotwari districts belong to it.

58. When, on the 17th September 1875 (No. 1371), the Madras Government appointed a Committee for the preparation of a draft Forest Bill, their instructions to this Committee were to the following effect :—

* * * *

His Excellency the Governor in Council.....is of opinion that special legislation is necessary both in the interests of Government and to protect individuals and communities in rights of property which they have, from time immemorial enjoyed, and in which, in the absence of a specific Code, it is to be feared they are too often molested.

An Act is required which shall deal separately with forests under the heads of—

I.—State Forests.—Their reservation and, where necessary, the acquisition therein of existing rights and easements.

II.—Communal Forests—Their administration for the benefit of the community having rights in them.

III.—Proprietary Forests.—Whether belonging to zemindars, other landowners or corporate bodies, their sound administration for the prevention of waste under equitable conditions as to payment for inspections, &c.

59. When the Bill which has now been passed as the Indian Forest Act was before the Legislative Council of the Governor General, after having been amended in Committee, it was referred to the Madras Government, with remarks to the following effect :—

No. 12F, dated the 5th January 1878.

From—The Government of India, Dept. of Revenue, Agriculture and Commerce,

To—The Government of Madras.

* * * *

2. I am to suggest that viewing the Bill as a whole, and bearing in mind the great improvements, as to the substance and phraseology that have been made in it, His Grace the Governor in Council may, perhaps, be willing to accept it; the more so in that the rules give great scope to Local Governments for meeting local peculiarities, and that section one allows of the non-application of chapters and sections which are inappropriate, if such there be.

3. I am therefore desired by His Excellency the Governor General in Council to invite the Madras Government to consider whether a local Act would really be of more use to them than the Bill as now amended, or with any further amendments. If the Madras Government still consider it preferable to pass a local Act, then the passing of this Bill will be no obstacle to their wishes being carried out; but in this event, I am to request that the draft Bill asked for in my letter above quoted may be forwarded as early as possible.

In reply, the following telegram was received from the Government of Madras :—

"The Government unanimously consider that Bill pointing directly to arbitrary absorption of private rights and property will cause great dissatisfaction and create serious disaffection. If passed at all, essential that it be declared in the Bill itself inapplicable to Madras."

This telegram was supported by minutes by His Grace the Governor, Sir William Robinson, and the Honourable W. Huddleston.

60. As these minutes give a more complete idea of the general forest policy of the Madras Government than any other document before the Government of India, it will be best to print them *in extenso* :—

Dated the 9th February 1878.

Minute by His Grace the Governor.

I very much regret that these papers were not sent on to me earlier, so that I might have had more time to consider the important questions raised. I only got them on the 5th.

2. I am still of opinion that the whole spirit and frame of this Bill are inapplicable to the wants and circumstances of this Presidency, and that they will tend to defeat the main object which the Government have in view, *viz.*, the protection and continuance of the forests, both Government and village or private. I believe that this Bill, if passed, will, in this Presidency, give rise to grave dissatisfaction, and will create serious disaffection. I believe that it will do so, not because the native people are averse to the maintenance and protection of forests, but because the basis and principle of the Bill is the ultimate extinction of all private rights in or over forest or waste land and their absorption by Government.

3. To be effectual in this Presidency, a forest law must have the support and sympathy of the zemindars and the people generally. To effect this, it should be so framed as to make it the object of villages and of zemindars to foster and encourage their forest growth for their own and for general good. The present Bill is framed for the purpose of the acquisition by Government and ultimate extinction of all such private or village rights.

4. As regards the interests of the villages and the zemindars or other private owners, it is a Bill for confiscation, instead of protection, *e. g.*, any person who is proved, on inquiry, to have a good right to certain forest products in a certain forest, and receives in consequence "an order continuing" to him the right so admitted is then prohibited for the future from making any alienation, (although he has proved his right to be good and unrestricted, and to have been his to hold, sell, or dispose of as he liked), unless, indeed, the right be appendant to any particular house or land, and then only with, and not apart from, such house or land, *i. e.*, a man having proved himself owner of an immemorial right to pasture cattle in a forest is prohibited henceforward from giving or letting to his own family even any share in this right to pasture. This is simply confiscation of a certain valuable property.

14th Clause.

24th Clause.

5. Again, if Government have the right by custom or otherwise to any forest produce, say Cardamoms in a forest, which otherwise does not in any way belong to Government and over the land of which they have no other rights, then Government may declare the whole forest a protected forest, and may, ignoring all private rights, declare any class of trees therein to be reserved, *i. e.*, to be henceforward, Government property, and may prohibit the persons admitted to be owners of established and hereditary perhaps immemorial, rights, of ownership from building a house in it or from doing any usual act of ownership over such land, or using even that part of its produce to which Government lay no claim to; and this not only in a forest but on waste land over or in which Government may have any right or claim to any special produce, *i. e.*, gold, if this is found in the land, then Government may declare such waste to be a protected forest.

2nd Clause.
29th Clause.

30th Clause.

6. This again is very near akin to confiscation.

7. Again, if existing and proved rights of ownership to land and produce are such that the forest Settlement Officer finds it impossible, with due regard to the maintenance of a reserved forest, to settle or allow continuance of existing rights, recognized as valid in the ways set forth in Clause 14, he *shall* commute such rights as he thinks fit.

8. This is probably much the same process which the Norman Kings adopted in England for their forest extension.

9. The powers proposed to be given to the Police are arbitrary and dangerous, *viz.*, arrest without warrant or order by any Policeman of any person suspected of having been concerned at some unknown time (two years previously) of being concerned in a forest offence (taking some wild bee's honey from a tree or the skin of any dead animal).

10. The words reasonable suspicion are no protection, for the act and decision rests with the individual Policeman, and, therefore, it means simply reasonable suspicion in a Policeman's mind.

11. True, a man so arrested shall, without unnecessary delay, be taken before a Magistrate; but this is a process of time ordinarily entailing a lengthened march and occupying two or three days.

12. The practical effect of this clause will inevitably be not prosecution of offenders, but the demoralisation of the Police by levying black-mail.

13. The general effect of the measure will be at once on its passing to place in antagonism to Government every class whose support is desired and essential to the object in view, from the zemindar to the Hill Toda or Corumber.

14. In this Presidency, the object of Government should be the preservation and maintenance of the forests in whosesoever possession for public and private use, as well as for climatic reasons. To effect this most completely, and at least cost to the State, not only should Government forests be protected, but every means should be taken to enhance and secure to zemindars the full benefit of all their forest produce and of their planted lands. To induce them to conserve that which has only a future value, their tenure should be assured rather than made more doubtful; they should be encouraged to utilise their tracts of waste as a sure property, rather than have their suspicions aroused that Government will seize it.

15. Village communities should, in the same way, be encouraged to preserve and improve their own customary forests or jungles by reaping to their village benefits therefrom.

16. The acquisition and management under Government of increased areas means increased establishment and increased cost, without adequate return, increased apathy, increased ignorance among the people, on the very points on which increased energy and the extensive knowledge, only to be acquired by experience, is essential.

17. I would suggest a draft being prepared in this sense, and that a telegram be immediately sent to the Government of India, to the effect that our objections to the Bill are not removed. That it is our unanimous opinion that the Bill pointing directly to the arbitrary absorption of private rights and property will cause grave dissatisfaction and create serious disaffection. If passed at all, essential that it be declared in the Bill itself inapplicable to Madras.

BUCKINGHAM AND CHANDOS.

Dated the 3rd February 1878.

Minute by the Honourable SIR W. ROBINSON, K.C.S.I.

I have scanned the provisions of this Bill again and again with the most anxious and conscientious desire to accept it, and under a sense of the difficulty of local legislation, while the Imperial Statute Book already contains an enactment conceived in the spirit of this Bill. But I find myself utterly unable to almost close a long career of Indian experience and Indian sympathies with an expression of confidence in legislation of this character in respect to so anxious a matter as forestry in South India. On the contrary, had I a voice in the Legislature of India, I should be constrained to use it against a project of law which, I believe, would be at once rejected by the English Legislature as foreign to its own safe principles of legislation, and, as regards this country, certain to be distrusted by the people and with reason; it is obviously menacing to valued native prescriptions and property, and likely to prove unfair, vexatious, and oppressive, if not absolutely confiscatory in its operation. I believe that this Bill, if it become law, may, and I fear will, be worked by any agency to whom we must confide its powers as a "Defective Titles Act"—such as caused great injustice in Sweden some two centuries ago—against almost any desirable property which, under the license of the interpretation clause, can be termed forest. It may possibly have this effect throughout India; but, at all events, owing to this characteristic, the Bill, as it stands, is certainly unsuited to South India.

2. I feel the more disinclined to accept this Bill for the Presidency of Madras when I look back on the painfully suggestive history of its forestry since the commencement of our rule. Its earlier phases were reviewed by a master-hand (Sir Thomas Munro) in 1822 (see his Minute of 26th November 1822, which I would commend for consideration), with reference to then proposed forest legislation, with the conclusion that "the system we are following and now seeking to legalise * * * is worthy only of the times of the Norman Conquest," I will not recall the more recent forest confiscations in Canara; nor canvas either the doubtful action of so-called forestry within the ancient prescriptive properties of village communities or the menace against the rights of the owners of unsettled Palyems which have come before us and the like. The Board of Revenue have, I believe, justly characterised our Forest Department as "eager to destroy all forest rights but those of Government." Such being the experience of the past, I feel no hesitation in recording my apprehension that, for all practical purposes, legislation so inexact, and procedure so summary and high-handed—so subversive as respects the burden of proof, of the ordinary rules of procedure and evidence—as that contained in Section 3 and subsequent clauses of this Bill, and in Sections 28 and 29 and *passim*, threaten sooner or later to place a large mass of native prescriptions and usages and of immemorial private and communal property in South India in a position which may well excite the anxiety of those interested, and raise questions,—it may be wrongly,—as to the motives of the State. Neither the law which the Bill provides, nor the administration to which it confides the abnormal powers which it confers, justifies our expecting or advising the confidence of the people. A Committee of Executive Revenue Officials outside the ordinary administration of the law is perhaps less amenable to responsibility and hesitation than a single forest official; for a Collector with abnormal powers in his hands is, if he exceed or misuse them, more dangerous than a Forest Officer. And my own observation leads me to the conclusion that what we call "Forest Collectors" and their subordinates out-forest Foresters in their disregard of those private rights and immemorial prescriptions which form the common law of this country and the very ground-work of its immemorial and worthy social conditions. I myself hold that, especially in reference to this country, legislation must be most jealously restrictive and conservative in a contention of this kind with the masses of our native subjects;

and that the question :—what is the worst you can do under this enactment? is not out of place here. To my mind this Bill fails as respects South India in the former conditions; and my experience suggests very serious apprehension as to the only answer which could be given to the question which, as above stated, I think is open for consideration.

3. The Select Committee entertain special confidence in the proposed enactment by reason of Clause 2 of Section 1.. I confess that it fails to remove my diffidence—it aggravates it; for I believe that the little finger of a local Administration, when under direct local departmental influences, and financial pressure, and often under superior departmental suggestion, and influenced by fewer restraints, may prove thicker than the loins of the Imperial Government. Be this as it may, I see nothing in this provision which removes the objection to, or justifies a dangerous freedom of legislation of the drastic and menacing character which, I humbly believe, this Bill presents as respects South India. It is not meant to enact confiscatory laws; and I would divest all laws of such appearances.

4. I will not protract my general dissent as respects the applicability of this Bill to Southern India by the many remarks that suggest themselves on the individual chapters and sections of this Bill. It may be asked *in limine* to what may not a Government in India advance a claim or assert a paramount or partial right? A claim to share gold and cardamoms lays the whole of the private property in Wynaad at the mercy of this Bill; a claim for *pulery* or grass-tax extends its confiscatory powers over half the woodlands of South India, and so on. These chapters and sections are framed in a spirit that savors of foreign rather than English legislation; and the majority of them, more especially as respects novel and summary procedure, present to my mind features that cannot but prove most distasteful to, and be mostly distrusted by, the people whose rights and prescriptions require comfort and protection at our hands rather than challenge and disallowance.

5. The Appellate Section (32) Clause (a), will, I am afraid, command no popular confidence, and I should sympathise with a popular hesitation to accept a special Appellate Forest Court, (b) temporarily created *ad hoc* as a safe and worthy substitute for the ordinary judicial tribunals of the country and their careful procedure. It seems to me that the original jurisdiction is unfitting for inquiry of a judicial character, and, under the circumstances, probably unseemly; while the procedure and the powers conferred on the forest-officers are suggestive of, and may occasionally provoke, wrong. The appellate jurisdiction seems out of order and open to distrust as a corrective. Before each and every *quasi*-tribunal, the high-handed initiative of the first judicatory places the native subject at the disadvantage of appearing as a suppliant, with the burden of proving an affirmative—an almost hopeless position as respects village property. The position is unjustifiable, considering the length of those rights and prescriptions as compared with the newly-asserted demands of the State.

6. Chapter III seems scarcely appreciative of the fact that the ancient village system, of South India at least, possesses immemorial prescriptions of communal property, which are more valued than any novel assignment of a local Government ever can be,—prescriptions which cannot be traversed, abridged or meddled with, more especially in the direction of confiscation and commutation in the interest of the State, without leaving a deep feeling of injustice and resentment amongst our agricultural communities. No legislation can be, I believe, suitable to Southern India which does not *in limine* recognise, in specific terms, the ancient landmarks of village communal property, and secure to the community the income of their joint property and a special interest in its administration. This Bill disposes in a single section of a matter in which the majority of the population of South India is preeminently concerned, and that by introducing into the administration of village woodlands, and pasture wastes, and of village forests—for jealously conserved village boundaries include many of these—the provisions of the Bill which can only suit State forests. The provisions of the Bill are wholly unsuited to the village conditions of South India, and practically I fear are hostile to them.

7. As regards Chapter V, I will only remark that I regret to see the imprimatur of the legislature placed on matters so unestablished and conjectural, in respect to forests, as are some of those enumerated amongst the five "purposes" set out in Section 35.

8. Chapter VI is not suited to South India and its trade. The legislature does not usually confer such powers of taxation without limit.

9. I should expect Chapter VII, in its length and width, to prove quite intolerable in South India; nor can we easily exaggerate the oppression and corruption to which this chapter and B of Chapter IX—otherwise over-severe, exacting, and hazardous in its provisions throughout—will open the widest portals. In the same way, Sections 72, 77 and others are wholly unsuited to the agency of the forest administration of this Presidency.

10. On the whole, I confess that I approach, with serious misgiving, forest legislation for South India conceived in the spirit which this Bill manifests. Forest administration is in every country a most difficult matter of adjustment with the people, whose immemorial properties and rights are affected by it; and in this country these conditions are so intricate and widespread, and, at the same time, so little understood and so grudgingly recognised by the Government and its executive officers, that the danger of invading popular proprietary titles, immemorial prescriptions and ancient usuages and rights is proportionately great. Few things tend, I believe, more to alienate—and to alienate permanently and not unreasonably—the best feelings of the people, and to spread contention and discontent over the land, than

recklessness or mismanagement in these things—more especially as respects the lower orders, as well as our agricultural classes, who form the large majority of our population. For these classes are naturally specially affected by the inevitable severity of Forest Laws and their necessarily somewhat high-handed administration; nor is it always possible to remove a certain confiscatory appearance from such laws, even in the eyes of the higher and more intelligent orders.

11. For all these reasons, this Bill is to my mind open to serious objections; and I feel constrained, therefore, to advise that South India be distinctly exempted from amongst the places to be brought under its operation.

W. ROBINSON.

Dated the 14th February 1878.

Minute by the Honourable W. HUDDLESTON.

I have already recorded my opinion, with reference to the Government of India's letter of 5th January 1878, that there can be no need for our taking, by local legislature, powers additional to those conferred by the Government of India Bill, if, as stated by Mr. Batten in that letter, Section 1 of the Bill allows of the non-application of inappropriate chapters and *sections* which I do not find to be the case in the latest draft we have received; and it would appear from the Revenue Secretary's pencil-note on the letter that nothing is known of the letter of 31st October 1877 said by Mr. Batten to have been addressed to us in the Legislative Department.

2. But from the present telegram to His Grace the Governor from the Viceroy, it may be inferred that this missing letter asked our opinion generally on the provisions of the Bill, and as His Grace and Sir W. Robinson have recorded their views on the subject, I briefly note my own.

3. The Bill applies to every description of vegetable growth,—whether standing, fallen, felled or fashioned; to all minerals,—whether metal or stone; to all vegetable products; to skins, horns, tusks, bones, and even silk-worms and their cocoons.

4. It enables the Government, when entitled to *any part* of such produce in a forest or *any waste land*, to declare such tract a reserved forest, and thereupon *to extinguish* all private rights therein not claimed (without good cause shown for failure) within a period of "not less than three months," or which have not come to knowledge by inquiry made after such period by a Forest Settlement Officer or Committee, of which he is a member; he being also empowered to adjudicate on claims, to transfer claimed and admitted right to other localities, or to commute them *as he may think fit;* and appeal, within three months of his decision on the claims being allowed, to a Revenue Officer or Forest Committee, whose decision shall be final. Subsequent alienation of any admitted private right without the sanction of Government is absolutely prohibited, unless with any land or house to which it may be appendant.

5. And the subsequent exercise of any right not admitted (including the *removal of any forest produce*, which would cover collecting leaves or gathering sticks) *shall be* punished with imprisonment up to six months, or fine up to Rs. 500, or both, in addition to damages.

Section 26.

6. If fire is caused wilfully or by gross negligence in a reserved forest, possibly by some person possessing no right in it, and with intent to injure those who do possess possibly far more than the Government right, the exercise of *all* right therein may be suspended as long as is thought fit.

7. Similarly, when the Government is entitled to any portion of Forest produce, it may declare such forest or waste tract a protected forest, and saving admitted private claims therein, may reserve any class of trees, close any portion of it for not exceeding ten years, and suspend the exercise of private rights therein, provided a sufficient area for this exercise conveniently is left open; and regulate therein all acts by others than those who have established individual private rights, and the breach of such rules *shall* be punished as in the case of reserved forests.

8. Further, in regard to *any* forest or waste land in which the Government assert *no* claim to *any* right, they may, by Notification, *regulate* or *prohibit*—

extension of cultivation,
cattle-grazing, or
clearings, or
may construct any work, when deemed necessary, for—
prevention of floods or denudation of soil,
maintaining water-supply in springs, rivers, and tanks,
protecting communications,
or public health.

Or, if rules are disregarded, or necessity be deemed to exist, may assume control of such private forest or land, and treat it as a reserved forest, paying net profit of administration to

the owner, who, after "not less than three" or more than twelve years' experience of such expropriation, may require Government to acquire the land under the law.

9. Further, the control of *all* forest-produce in transit is vested in Government, and they may by rule, among other things, prohibit absolutely the working up of timber, under penalty of imprisonment or fine, as above.

10. The forest offences created by the Bill are—

in reserved forests—

kindling fire,

trespassing,

grazing cattle,

causing damage by negligence,

felling or lopping trees

stripping bark or leaves,

working or gathering *any* forest produce,

cultivating land or breaking it up,

hunting, shooting, fishing or trapping against rule;

in protected forests—

breaking any rule regarding the working of timber or forest produce, or the clearing of land, or grazing, or hunting, &c.,

cutting or stripping leaves from a *reserved* tree,

damaging such tree by negligence,

and in assumed private forests the same as in reserved forests; and all such offences *shall* be punished by imprisonment and fine.

11. The Government may declare similarly punishable—

the breach of rules regarding transit of timber or forest produce, or the salving of drift timber;

or framed by them generally for carrying out the provisions of the Bill;

may confiscate all forest produce, in respect of which a forest offence has been committed, and all tools, boats, carts, and cattle used in such offence, and such confiscation may be in addition to any other penalty; and *any* Forest or Police Officer may *without warrant* arrest any person against whom "*reasonable suspicion*" exists of his having been concerned in any forest offence punishable with imprisonment of one month or upwards (the term named throughout the Bill being not exceeding six months).

12. That such a law is of the most arbitrary character, is capable of being worked in the most oppressive manner to the destruction of private rights, and that it is liable to the grossest abuse, does not really admit of question.

13. That such evil results can be adequately guarded against by the moderation of Government in applying its provisions and, by activity in supervising the action of inferior Forest and Police Officers under it, must be matter of extreme doubt.

14. In this Presidency, there is not an acre of land which does not lie within the limits of some village, and in the unreclaimed portion of which the villagers have consequently, from time immemorial, claimed and exercised certain common rights of procuring timber for building their houses or constructing agricultural implements, collecting fuel or grass or leaves for domestic and agricultural use; of hunting, fishing and grazing their cattle; and from time to time have, in accordance with local custom, extended cultivation, subject to the Government and village dues.

15. To invest a body of Forest Officers with powers in the asserted interest of their speciality, to regulate at discretion and under penalty of fine and imprisonment the exercise of such rights by a very simple peasantry in remote localities, is to entrust them with an enormous power, capable of being abused to a fatal extent.

16. If in the interest of the community generally, and of even forest villagers themselves, it is essential that power should be taken to conserve and manage forest tracts, the powers taken for the purpose should, I conceive, be limited and their exercise restricted within far narrower bounds, and with far more tender concern for private individual and common rights than the Bill recognises or exhibits.

W. HUDLESTON.

61. It will not be necessary here to discuss the arguments advanced against the Indian Forest Bill, and in favor of local legislation. If the Madras Government find, on further consideration, that the Indian Forest Act does not satisfy the requirements of Madras, there will be nothing whatever to prevent their legislating locally. For the same reason, it will not be necessary to review

in detail the objections urged against the Act, except so far as the remarks made by the members of the Government of Madras indicate their views regarding forest administration generally.

Paragraph 14 of the Minute recorded by His Grace the Duke of Buckingham and Chandos states that, in the Madras Presidency, " the object of Government should be the preservation and maintenance of the forests in whosesoever possession for public and private use, as well as for climatic reasons." Nothing could be better, as an acknowledgment of the duty of Government in this respect, and as an indication of the general policy that should be pursued; and if these principles had been acted upon, and if the right means had been taken to attain these objects, much of the misery and distress of the late famine might have been obviated.

62. With regard to the three classes of forest indicated in the orders of the Madras Government of 1875, the Minute goes on to say that " not only should Government forests be protected, but every means should be taken to enhance and secure to zemindars the full benefit of all their forest produce and of their planted lands. To induce them to conserve that which has only a future value, their tenure should be assured rather than made more doubtful."

" Village communities should, in the same way, be encouraged to preserve and improve their own customary forests or jungles by reaping to their village benefits therefrom."

Read in connection with the Madras Government orders of 1875, these are excellent remarks: *State or Government forests* are to be protected, that is, they are to be permanently reserved as forest, and, where necessary, to ensure their effective protection, rights and easements existing in them are to be acquired. *Village or communal forests* are to be administered for the benefit of the community: and as regards *proprietary or private forests*, they are to be placed under a sound administration for the prevention of waste.

The object of forest administration, as here stated, is identical with the object aimed at by the Indian Forest Act, except that in one point—the control over private forests—the programme of the Madras Government goes far beyond what is contemplated in the provinces where forest administration is governed by the provisions of the Indian Forest Act.

63. Before, however, these excellent principles can be put into practice, it is necessary to ascertain, by a sober and searching enquiry, to which of the three classes the forests of any particular district belong. It has been shown above that the Madras Government acknowledge the existence of a very large area, many thousand square miles of *Government forests*, distributed over most districts of the Presidency. This being acknowledged, there is no reason why demarcation should not commence at once. It cannot be expected that these extensive Government forests should be free of rights to pasture, wood, and other forest produce. As Mr. Huddleston states in paragraph 14 of his Minute, " there is not an acre of land in the Madras Presidency which does not lie within the limits of some village, and in the unreclaimed portion of which the villagers have consequently, from time immemorial, claimed and exercised certain common rights of procuring timber for building their houses or constructing agricultural implements, collecting fuel or grass or leaves for domestic and agricultural use; of hunting, fishing, and grazing their cattle; and from time to time have, in accordance with local custom, extended cultivation, subject to the Government and village dues." Similar rights exist, or have existed in most Government forests, not in India only but equally in Europe. Nevertheless, it has been possible, in India, as well as in Europe, wherever the welfare of the country demanded the efficient protection of such forests, to commute and acquire such rights and thus to make it possible to place limited areas of forest in a condition to furnish larger and permanent supplies of timber, bamboos, grass, and other forest produce to the agricultural population in their vicinity, and, in addition, to afford to the same population increased opportunities for earning money by the cutting and carriage of timber and other forest produce for export to localities at a distance from the forests. And, at the same time, such forests, being maintained in good condition, perfectly stocked, are a great

advantage indirectly in improving the water-supply in streams and springs, and otherwise in ameliorating the condition of the open country surrounding them.

64. The great aim of a well-organized system of forest administration in all countries, is to improve the condition and to increase the productiveness of the waste and forest lands by effecting a separation of the various rights and interests in those lands, a portion of the land being set apart to be permanently maintained as forest, while the remainder is available for the extension of cultivation and for pasture. Until such a separation has been effected, waste is unavoidable; for land on which a number of persons exercise rights of user, cut wood, graze cattle, and break up land for cultivation, remains in an unproductive state, and cannot be improved, but must deteriorate.

There seems no ground to doubt that the Madras Government has the same ultimate ends in view, and desires to organize the administration of the Government forests on the same principles as those which have been established in Europe by the experience of centuries, and which have now been recognized and adopted in nearly all provinces of India. If the procedure laid down in the Indian Forest Act is not applicable to the peculiar circumstances of the Madras Presidency, then it will not be difficult to devise another system which shall meet the local requirements in order to attain the end in view, *viz.*, the separation from the great mass of waste lands of the areas to be permanently maintained as forest.

65. It seems also to be believed by the Madras Government that there are extensive forests of another class, which are the property of village communities. Paragraph 6 of Sir W. Robinson's minute says :—" No legislation can be suitable to Southern India which does not *in limine* recognize in specific terms the ancient landmarks of village communal property, and secure to the community the income of their joint-property and a special interest in its administration." If such *Communal forests* really exist in Madras, there will be no difficulty in organizing their administration for the benefit of the community having rights in them. Well-managed Communal forests are a source of wealth in many countries of Europe. Side by side with the efficient administration of State Forests, there exists an equally efficient administration of Communal forests in France and in most States of Germany.

66. But in these common lands, the same separation of rights has been effected as in the forest domains of the State. These Communal forests are set apart to be permanently maintained as forest; they are not allowed to be cleared, or broken up for cultivation, though there are instances in which, under a regular plan of working, the land is ploughed and devoted to field crops during a few years after the mature forest has been cut, and before a fresh crop of forest is raised by planting. These forests are in no way open to indiscriminate cutting and grazing by the inhabitants of the towns and villages to which they belong. Such blocks only are opened to grazing as are in so advanced a state, that the forest cannot be injured by the admission of cattle, and all cuttings are regulated by a regular plan of operations, the aim of which is the maintenance of the forest in a high state of productiveness.

The administration of such Communal forests is entrusted to highly professionally trained officers, of the same class as those who have charge of the State forests, and it frequently is the case that the same officer has charge of the State and Communal forests in one district.

67. The pasture in the blocks opened for grazing is exercised under certain rules by the inhabitants of the community to which the forest belongs, and the timber, wood, and other forest produce is either distributed to the members of that community, or it is sold; and the proceeds devoted to the building of roads, bridges, the erection of churches, school-houses or other public buildings, or is otherwise expended for the benefit of the community. It not rarely happens when a municipality has incurred debts, or has any extraordinary outlay to make, that it becomes necessary to anticipate the cuttings of several years; but all such extraordinary cuttings are subject to the sanction of Government, and are only made when they are justified by a due regard for the maintenance of the forest.

The whole of the net revenue of these Communal forests goes to the community to which they belong, after deducting certain contributions paid to Government for the services of the State forest officers who are employed in controlling the administration of these forests.

68. Such are briefly the general features of the system under which the forests of towns and villages in certain countries of Europe are managed. The system is not the same in all countries where it exists, and there are considerable differences in the details of the administration. Nor is the system equally perfect everywhere; but wherever the State maintains an efficient control over the common landed property of towns and villages, the beneficial effect upon the well-being and prosperity of the inhabitants is most signally marked. In such districts, roads, bridges and public buildings will generally be found to be in good order, and a considerable portion of the communal charges is defrayed from the revenues of these lands. While not rarely in adjoining districts, where the municipalities, as has happened only too often, in times of war or political commotions, have alienated or divided their common lands, the municipalities are poor, the inhabitants are weighed down by communal taxes, funds are wanting to maintain and improve the lines of communications; schools and other public institutions suffer; and the result is an impoverished and stagnant condition of the district, while adjoining districts, with well-managed communal lands, are prosperous and progressing.

69. It is clearly the duty of the State, as the guardian of all public interests, to enforce the maintenance in a good state of productiveness of all common lands, and to exercise an effective control over their management and, if anywhere, this duty is important in India. All over the world, municipalities are apt to be short-sighted, the pressing demands and difficulties of the moment too often outweigh a prudent regard for the future; but in India, short-sighted apathy, ignorance and imprudence exist even in a higher degree than in Europe; and unless the State interferes and insists upon the maintenance and proper management of the common landed property of towns and villages, such property is sure to deteriorate, and will certainly not improve.

The correctness of these views cannot be gainsaid; they are not based upon theories and Utopian schemes; they have stood the test of long experience in some of the most civilized and progressing countries of Europe. But there is no evidence in the records of the Madras Government, or in the utterances of its members, that these views are recognized in the Madras Presidency, and that the Government of that Presidency is prepared to act upon them.

70. Paragraph 15 of the Minute by His Excellency the Governor recommends that village communities should be encouraged to preserve and improve their own customary forests or jungles by reaping to their village benefits therefrom. This is excellent as far as it goes; but in the next paragraph, it is said that the management under Government of increased areas means increased apathy and increased ignorance among the people on the very points, on which increased energy and the extensive knowledge, only to be acquired by experience, is essential. But unless the Communal forests are placed under good management by professionally trained officers, they will neither be preserved nor improved; they will continue to deteriorate. Their preservation and improvement can only be secured by the intervention of Government, whose officers, at the outset at all events, must undertake the control and management of the village forests. Unless this is done, the present apathy and ignorance of the people, with regard to the management of their common woodlands and grazing grounds, and the utter neglect and consequent progressing denudation of these lands, will continue, and will result in a further deterioration of their fields, and in endless misery when the next season of drought and famine comes over the country. Whereas, if Government recognizes its duty, as the guardian of the public interests, and insists on an efficient management of the common woodlands, the village authorities, it may be hoped, will gradually acquire that knowledge which will enable them to take a share in the management of those lands. The benefits which they will reap, as the production of grass and wood becomes more plentiful, and as the water-supply in springs, streams and tanks becomes more regular and therefore more useful, must gradually awaken in them a lively interest in the improvement of their common lands.

71. Speaking of the Bill, which has now become law as the Indian Forest Act, Sir W. Robinson, in paragraph 2 of his Minute says, that it "threatens sooner or later to place a large mass of native prescriptions and usages, and of immemorial private and communal property in South India, in a position which may well excite the anxiety of those interested and raise questions—it may be wrongly—as to the motives of the State."

In the proposals here submitted, nothing of the sort is contemplated, Forests, which on fair and impartial enquiry are found to be private property, will remain private forests; and it is most doubtful whether it will at all be expedient to interfere with their management. Forests, which are found to be the property of village communities, will remain village forests; but their management must, if it is intended that the country shall benefit thereby, be controlled by competent and professionally trained Government officers. In so doing, the motives of the State will be no more and no less than the sense of its paramount duty towards the people entrusted to its care, and of its responsibility in providing for their welfare.

72. These village forests must be managed under rules similar to those which have been established for the management of State Forests. Such rules are necessary to guard against waste and deterioration of this property, and to ensure the good management of these lands for the permanent benefit of the country. Such action will not, as suggested in paragraph 6 of the minute, be in the direction of confiscation in the interest of the State, nor will it leave a feeling of injustice and resentment among the agricultural communities of the Madras Presidency; but it will be dictated by a due regard for the interests of the country, and its beneficial results will earn the gratitude of future generations.

73. As regards *proprietary or private forests*, the intentions of the Madras Government, as recorded in the orders of 1875, are that they shall be placed under a sound administration for the prevention of waste. Except in special cases, where the denudation or deterioration of the forest growth in hilly tracts or in other localities under special circumstances would be injurious to the welfare of the country in their vicinity, it will probably be found best not to attempt any interference with private forest property. And whenever in special cases interference is needed, it will probably be best to acquire such forests by lease or under the Land Acquisition Act, so as to place them entirely under the control of Government. This seems to be acknowledged by the Government of Madras, for they desire that the Collector should make every effort to lease the more important of the forests which are now supposed to be private property in South Kanara.

74. But the first step in this business is to ascertain which forests belong to the class of State, Communal and private forests. This enquiry must proceed simultaneously with the demarcation of the public forests, *i. e.*, those which belong to the State and to village communities. The questions involved in this procedure are questions of fact, and not questions of law; and so far, the demarcation of the public forests needs no special legislation. On the 1st April last, the State forest domains in the provinces under the Government of India amounted to 17,589 square miles, and a large portion of this area is free of all rights of user, and is absolutely at the disposal of Government. This demarcation has been effected without any assistance by special legislation. The Government Forest Act of 1865, under which this work has been accomplished, was based upon the simple and safe principle that the formation and management of Government forests should not abridge or affect any existing rights of individuals or communities.

75. The broad principle followed was to fix the limits of the demarcated Government forests, so as to leave outside them an area of forest sufficiently extensive and conveniently situated to supply the requirements of the existing population in their vicinity. Having provided for their requirements in a liberal manner, the remainder was demarcated, to be permanently maintained as forest. This procedure can doubtless be followed in some of the wilder and more thinly inhabited parts of the Madras Presidency, where, by the showing of the Madras Government, the State possesses extensive forest tracts. And so far the demarcation of forests might proceed without the aid of

a special legislative enactment. But in the more thickly inhabited districts, the aid of a forest law will be necessary, in order to commute the rights of user exercised in the forests, so as to have certain portions free of rights, while other lands are assigned to villages or individuals. Special forest legislation will also be necessary to regulate the demarcation and management of Communal forests, and the interference of the State in special cases where it is necessary, in the interests of the country, to control the management of private forests. Lastly, a forest law is necessary in Madras, as in other parts of India, to give legal sanction to the measures necessary for the protection of demarcated public forests, and for the control of timber and other forest produce in transit.

But, as explained before, the first steps in the matter of forest demarcation may be taken without special legislation.

76. In that portion of this report which deals with the forest rights of Government in South Kanara, it has been proposed to appoint a Commission for the enquiry into and the settlement of this business. I now beg to propose that after having completed their work in that district, the same Commission should take in hand the demarcation of the public forests in those inland districts of the Madras Presidency where the evil effects of denudation have been felt most severely, such as Bellary, Kurnool, Cuddapah, North Arcot, Salem, Coimbatore, Madura, Tinnevelly. It is obvious that this work must be done in constant communication with the local authorities, and the most convenient plan will probably be to request the Government of Madras to appoint a special staff for Forest demarcation consisting of Officers of the Forest and Civil Departments in Madras, whose duty it will be to take up one district after another, and, in communication with the Collector, to make proposals regarding the demarcation of Government and village forests. These proposals, when completed for one district, should then, in the first instance, be submitted to the Commission proposed to be appointed, who, after enquiry on the spot by one or several of their members, should submit them to Government with their recommendations for sanction or otherwise.

77. If these suggestions are accepted, it will be possible to commence work simultaneously in South Kanara and in some of the inland districts, and thus there will be some prospect of the work of forest demarcation in the Madras Presidency being carried through within a reasonable time and with due regard for the future welfare of the country.

The officers of the Commission proposed to be appointed, together with the officers of the demarcation staff, will thus gradually, with the assistance of the Collectors and other local officers, acquire the needful local experience to enable them to advise the Madras Government in the matter of forest legislation; and when a local forest Act has been passed, it will then be possible to complete the work of demarcation and settlement of forest rights.

78. In conclusion, it will be well to repeat that, under the present proposals, the Commission here proposed to be appointed will have no power of deciding any question relating to forest or other lands. Their proceedings will, if the suggestions now submitted are accepted, be reported periodically both to the Government of India and the Government of Madras; and their final report regarding the forest demarcation in each district will be submitted to the Government of India, who will either refer the same for disposal to the Government of Madras, or will pass such orders as the circumstances of the case may require.

APPENDIX.

Statement showing the present Areas of the Government Forests, Fuel Reserves, and Plantations in the different Districts of the Madras Presidency, as well as the Receipts and Charges thereof from 1856-57 *to* 1875-76.

Districts.	Divisions or Sub-divisions.	Present Area of: Government Forests.	Present Area of: Fuel Reserves.	Present Area of: Plantations.	Receipts.*: Fuel Reserves.	Receipts.*: Plantations.	Receipts.*: Total.	Charges on the Formation, Maintenance, and Improvement of: *Government Forest.	Charges on the Formation, Maintenance, and Improvement of: Fuel Reserves.	Charges on the Formation, Maintenance, and Improvement of: Plantations.	Charges on the Formation, Maintenance, and Improvement of: Total.	Remarks.
		Approximate Area. Sq. M.	Acres.	Acres.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Ganjam	Gumsur and Surada	600	.....	3½	...	...	...	...	...	237	237	
Godavari	Budrachelluu and Rakapilly	520	.....	.....	...	...	...	...	...	...	...	Transferred from the Central Provinces—*vide* G. O., No. 744, dated the 17th June 1874, R. D.
Vizagapatam	Golcondah	Unknown.	.....	.....	...	...	...	...	...	...	...	
Cuddapah	Cuddapah	250	16,830	1,728	...	25	25	2,574	25,020	41,255	68,949	
Bellary	Ghooty	.....	.....	405	...	...	...	...	...	†10,799	10,799	Transferred to Jungle Conservancy *vide*—G. O., No. 693, dated the 5th May 1875.
Kurnool	Kurnool	2,000	.....	15½	...	...	...	6,195	...	1,729	‡7,924	
North Arcot	North Arcot	100	6,400	1,551	...	7,639	7,639	1,508	5,913	40,551	47,972	
South Arcot	South Arcot	77	65,140	3,540½	1,247	99	1,346	2,263	13,272	9,058	24,593	
Tanjore	Tanjore and Negapatam	.....	.....	Not known.	...	...	...	...	...	1,007	1,007	Under the charge of the Collector from 1872-74.
Trichinopoly	Trichinopoly	Not known.	3,877	1,752½	1,767	3,093	4,860	278	7,570	34,891	42,739	
Madura	Madura	400	Not given.	363¾	...	15	15	2,829	450	5,314	8,593	
Tinnevelly	Tinnevelly	290	5,527	.....	1,753	...	1,753	949	8,467	...	9,416	
South Coimbatore	Anamallay	800	.....	19	...	...	...	41,083	...	3,759	44,842	
North Coimbatore...	Bhowani	400	.....	3¼	...	...	...	23,066	...	768	23,834	
	Collegal	500	.....	64	...	...	...	2,791	...	16,718	19,509	
	Sathiamungalum	500	.....	569	...	...	...	2,563	...	14,704	17,267	Inclusive of receipts and charges of the Seegur Forests (exclusive of those on plantations of that division) which has been separated in 1872-73—*vide* G. Os., No. 328, dated the 15th March, and No. 678, dated the 2nd July 1873, respectively.
	Mettapolliem	200	12,160	6	70	...	70	2,896	2,238	177	5,311	
	Bolumputty	4	1,010	.....	1,105	...	1,105	2,867	13,938	...	16,805	
Nilgiris	Mudumallay	300	.....	1,079	...	...	...	26,516	...	22,749	49,265	
	Seegur	40	.....	23	...	...	...	82	...	7,377	7,459	*Vide* remarks against Sathiamungalum.
	(Nilgiri Sholas) and Wellington Australian Plantations.	43	.....	1,039	...	16,337	16,337	2,453	...	16,619	19,072	

Present Areas of the Government Forests, Fuel Reserves, and Plantations in the different Districts—(contd).

Districts.	Divisions or Sub-divisions.	Present Area of			Receipts*			Charges on the Formation, Maintenance, and Improvement of				Remarks.
		Government Forests.	Fuel Reserves.	Plantations.	Fuel Reserves.	Plantations.	Total.	*Government Forests.	Fuel Reserves.	Plantations.	Total.	
		Approximate Area.										
		Sq. M.	Acres.	Acres.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Salem	Salem	2,261	19,369	... 28½	2,161	...	2,161	44,682	22,002	§ 5,161	71,845	
North Canara	North Canara..	Not known.	.....	.....	...	...	...	1,619	...	...	1,619	Transferred to Bombay Presidency in 1861-62—*vide* Madras G. O., No. 862, dated the 17th April 1862.
South Canara	South Canara	Ditto.	.....	109	...	...	...	5,814	...	9,751	15,565	
Malabar	Wynaad	150	.....	.....	...	...	...	2,863	...	...	2,863	
	Hoonsoor	Not known.	.....	.....	...	...	...	48	...	...	48	Transferred to Mysore Government *vide* G. O., No. 33, dated the 10th January 1865.
	Nilambur	59	.....	3,490	...	111,614	111,614	4,253	...	¶2,27,771	2,32,023	
	(Sholakurray and Chenat Nair) Palghat ...	21	4,002½	‖ 191	1,603	...	1,603	286	**46,061	‖ 3,908	52,255	
	Total ...	†† 9,505	134,315½	15,968½	9,706	138,822	148,528	180,497	*1,46,931	* 4,74,303	8,01,731	Exclusive of share of establishment.
									6,21,234			

1. * The receipts from Government Forests are not exhibited in this Statement, as the charges which have been incurred for production of revenue, exclusive of money spent on extraordinary expenditure, such as construction of roads, bridges, compensation for land purchased, &c., which go towards the improvement of the Government Forests, have likewise been eliminated under the column of working charges, Statement No. 3.

2. † Out of this only Rs. 9,168 are exhibited in the Statement of Plantations. the difference, *viz.*, Rs. 1,631, is the travelling expense incurred by the Forest Officer, and the travelling expenses of the Deputy Conservator were excluded, because no portion of the permanent establishment expenditure was charged against plantations. The figures are only for working charges, inclusive of the cost of the temporary supervision.

‡ Inclusive of the amount spent on the plantations of Woncarrum and Muttycondah, which were abandoned.

§ Inclusive of Rs. 433-14-3 spent on Puchoor plantation, which was given up in 1873.

¶ Inclusive of Rs. 80,000 for purchase of land—*vide* G. O., dated the 12th August 1872, No. 1194.

‖ Inclusive of the amount spent on Noochipully and Puliampully plantations which have been merged in the Chenat Nair Forests—*vide* Board's Progs., No. 180-2,732, dated the 23rd September 1874.

** Inclusive of Rs. 45,000 for purchase of land—*vide* G. O., No. 1445, dated the 18th October 1872, and Mis. G. O., No. 53, dated the 9th October 1874, and Board's Mis. Procs., No. 120-1—786, (Forest), dated the 16th June 1875, respectively.

†† The total area of Government forests is not correct. as it does not include the areas of Buddrachellum, Golconda, Trichinopoly, Madura, Tinnevelly, Nilgiri Sholas, Salem, South Canara, and as the figures given for others are only approximately estimated areas.

FORT ST. GEORGE;
The 25th April 1877.

D. F. CARMICHAEL.
Officiating Chief Secretary.

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